
Commission Meeting

of

NEW JERSEY COMMISSION ON CAPITAL BUDGETING AND PLANNING

LOCATION: Committee Room 103
State House
Trenton, New Jersey

DATE: October 9, 1998
10:30 a.m.

MEMBERS OF COMMISSION PRESENT:

B. Carol Molnar, Chair
Senator Bernard F. Kenny Jr.
Senator Robert E. Littell
Assemblyman Louis A. Romano
James A. DiEleuterio Jr.
Janice Mitchell Mintz
Margaret M. Villane
Anthony F. Annese
Robert A. Roth
E. Martin Davidoff

ALSO PRESENT:

Christina Higgins
(representing Michael R. Ferrara)

Jerry Traino
(representing Assemblyman Francis J. Blee)

Paul Shidlowksi, Acting Executive Director
New Jersey Commission on Capital Budgeting and Planning



Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

Herbert Simmens
Director
Office of State Planning and
Secretary
State Planning Commission

40

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

TABLE OF CONTENTS

Page

B. CAROL MOLNAR (Chair): In accordance with the open public meeting law, the Commission has provided adequate public notice of this meeting by giving written notice of time, date, and location. The notice of the meeting has been filed at least 48 hours in advance by mail and fax to the Trenton *Times*, the *Star-Ledger* and filed with the Office of the Secretary of State.

Roll call.

MR. SHIDLOWSKI (Acting Executive Director): Mr. Martin Davidoff.

MR. DAVIDOFF: Here.

MR. SHIDLOWSKI: Mr. Anthony Annese.

MR. ANNESE: Here.

MR. SHIDLOWSKI: Mr. Robert Roth.

MR. ROTH: Here.

MR. SHIDLOWSKI: Senator Littell. (no response)

Senator Kenny. (no response)

Jerry Traino for Assemblyman Frank Blee.

MR. TRAINO: Here.

MR. SHIDLOWSKI: Assemblyman Romano.

ASSEMBLYMAN ROMANO: Here.

MR. SHIDLOWSKI: Treasurer DiEleuterio.

TABLE OF CONTENTS

Page

TREASURER DiELEUTERIO: Here.

MR. SHIDLOWSKI: Commissioner Janice Mintz.

COMMISSIONER MINTZ: Here.

MR. SHIDLOWSKI: Ms. Margaret Villane.

MS. VILLANE: Here.

MR. SHIDLOWSKI: Ms. Christina Higgins representing Michael Ferrara.

MS. HIGGINS: Here.

MR. SHIDLOWSKI: Ms. Carol Molnar.

MS. MOLNAR: Here.

MR. SHIDLOWSKI: We have a quorum, Madam Chair.

MS. MOLNAR: Thank you.

We'll take the agenda slightly out of order to accommodate our Treasurer's schedule.

We'll jump down the legislative issues. The debt report due date, debt report requirements, and full-time Commission staff -- we'll take those first.

I will start with the relief for the debt report due date. I believe the due date is -- what? -- December--

MR. SHIDLOWSKI: It's December 1 right now, Madam Chair. It is the same date for the Commission's capital recommendations.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Now, a few people have mentioned alternative days that, perhaps, might help the Treasurer's Office. I would like to defer, perhaps, to our Treasurer if he wants to give any input.

TREASURER DiELEUTERIO: Well, in terms of the due date itself and the amount of information that has to be collected to go into the report, if the date, to suit the needs of the Commission, needed to be moved back, rather than forward, I wouldn't object to that. Moving it forward has a couple of problems. One is that a lot of the information that goes into the report is dependent on the issuance of the CAFR which, generally, is ready in October. I can't always guarantee that it is going to be ready in October. Once that is issued and we have audited numbers, we can then issue a debt report with a degree of confidence. December 1 works out well, at least, for the Office of Public Finance, who does a lot of the work that goes into generating a report. I just-- I would find it difficult to meet that requirement of a date that was any earlier in the year than December 1.

I am not sure what the issue is, in terms of whether it is the Commission that has an issue or whether it is any of the people that have expressed an issue with respect to the due date.

MR. SHIDLOWSKI: Public Finance has never made an issue of the date. This was something that the Commission had wrestled with because, in the midst of seeing all the capital presentations and thinking about

TABLE OF CONTENTS

P

age

recommendations, the Commission had expressed, on occasions, that they didn't feel that they had enough time to reflect on the information that is in the debt report because of the timing.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: I think I had raised this issue at one time. It's a matter of-- We have a whole year and all of our work is into four months. It is a matter of just relieving it. As far as I am concerned, it is an informational report more than anything. If we-- As far as I am concerned, if we made the date February 15 or March 1, we would have to December from that point in order for us to sit -- instead of just having one meeting, maybe a work session just to understand the full report. Right now we kind of get it, accept it, and move on. I think it would be more helpful if we could get the legislators, only one of whom is here today, to have, as you put, legislative relief to have that at a different time of year to spread out the work.

I don't know if the staff that our Executive Director use are busy in other things at the time. If that is something that can be put off, from my point of view -- and I think the Commission would just allow us to focus on that separately--

TREASURER DiELEUTERIO: Madam Chair, if I could.

I would just also remind the Commission that, particularly in view of the legislators who are on the Commission, if you push it back too far--

TABLE OF CONTENTS

P

age

Assemblyman Romano, Senator Kenny, Senator Littell, and most of the legislators are then involved in the budget process. If you start to place demands on their time, they might--

I don't want to speak for you, Assemblyman.

ASSEMBLYMAN ROMANO: No, no, no.

TREASURER DiELEUTERIO: February and March is when budget hearings start, and frankly, these gentlemen, and myself included, are tied up with going to budget hearings. I would rather see an earlier submission so that there is some discussion about it. I understand what you are saying about pushing it off to allow some time for consideration, but frankly, I think you are pushing it off into a busier time of the year.

MR. DAVIDOFF: If we put it to February 1, would that work?
That way it is done by February 1.

TREASURER DiELEUTERIO: Well, even at that, the budget has been introduced by then, and the Legislature needs to start its work, as well as the OMB staff.

Have we had a particular problem with December 1 that I am not aware of? That is my question.

MS. MOLNAR: How about December 15 as a slight adjustment and not a total month to change?

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: The other alternative-- I don't know how critical our report on debt is to the budget for that particular year. It's a long-term analysis that we are being asked to do, I believe. I don't know if it would be-- It may take it out of timing, but -- I don't know -- if we would do the debt for the prior year even in July and August, where we have no work on anything else at that time, would you be able to-- A full year back -- we want to be looking at the immediate June 30th.

Again, I am throwing this out as an exploration only because in the fall we're meeting every two or three weeks, and we really don't have a chance to digest it. Certainly, our staff wouldn't have a chance to focus on that.

ASSEMBLYMAN ROMANO: Madam Chair.

MS. MOLNAR: Yes, Assemblyman.

ASSEMBLYMAN ROMANO: The document in itself-- I got the opinion from the Treasurer that the document, whether in fact or in theory, is supposed to be produced, I believe, before the Governor produces a budget. This is not something that is supposed to be after the fact. Whatever you do, you are going to have to do it in time for the Governor's issuance of the budget.

Number two, let me just correct-- December the 15th is not a Friday. In fact, that would be the 18th, and if everyone -- benefit, the

TABLE OF CONTENTS

P

age

Legislature goes into vacation on the 17th, but we will do our best to make whatever meetings that we have to.

Am I right, Senator Littell?

SENATOR LITTELL: You're right. Listen, whatever you say is right.

MS. MOLNAR: I was just picking that as an alternate date.

ASSEMBLYMAN ROMANO: No, no, I am just saying whatever you do--

MS. MOLNAR: Is there any other feelings by other public members or other Commission members? (no response)

We're talking about the debt report. It is due December 1. There has been some discussion about moving it to a later date, maybe December or January. The Governor -- I am sorry. The Treasurer mentioned that February and March you guys start getting into the budget process so that might not be a doable time either.

SENATOR LITTELL: Well, let me ask a question, Madam Chairwoman. What difference does it make? Because, after all, she is not going to reprint the budget at that point and time. The recommendations are important to the Legislature who have to spend the rest of the six months going over the documents and asking questions from department heads about the Capitol Budget and Planning (*sic*) meetings for their particular area of

TABLE OF CONTENTS

P

age

responsibility. Therefore, it would seem to me that it doesn't really make an awful lot of difference when you get it, as long as you get it by the time the budget is presented.

TREASURER DiELEUTERIO: The discussion seems to be leaning in that direction. We have-- I am not sure what the impetus for the suggestion for the change was at this point. The point I was trying to make was that the report should be submitted before the budget. If it doesn't get submitted until after the budget, number one, you have a scheduling problem with all of us who are involved in the budget process. Number two, it could influence how the budget is structured. It should be submitted before the budget is prepared. I would support leaving it at December 1.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: The Treasurer asked about the impetus. It is part-- I think I raised this issue at one time, and it is part of an overall view of how the Commission operates. I know I am mentioning something a little bit out of order in the agenda, but it is just so I can give you the scope-- The idea is that if we had a regular staff, we would be able to spread out the work over the entire year. My understanding of the legislation is not necessarily something that has to be done in order for the Legislature to do its budget from year to year, but something that is a long-term look at-- At least, our analysis of debt is a long-term kind of thing. I would prefer if we end up

TABLE OF CONTENTS

P

age

having a-- One of the questions is having a paid staff. If we end up having a staff trying to spread the work throughout the year and having the ability, for us as Commission members, to really take a look at some of this stuff and really understand it--

I think the presentations that you have made last year were excellent presentations and an excellent summary. Frankly, I sat there and said it looks good for what it is. I asked a few questions, as I always do, but I didn't see any problem with it.

I would tell you, frankly, that I didn't have any independent-- Before the legislation was passed, you were still doing this, and you were still making the presentations. I assumed that when the legislation was passed adding this to our responsibilities that it meant that we should take an independent look at this, and we are not. The whole impetus of this is to spread this out and give us some staff and help us to take an independent look at this and really think about it instead of just accepting what is there. Otherwise, I would tell the legislators to take it out of our responsibility because, if we are not going to take a good look at it, we might as well not take a look at it and just let it go directly from the Treasurer to the Legislature and just bypass us. So, in my view, either we take a good look at it or it not become our responsibility any further.

ASSEMBLYMAN ROMANO: If I may--

TABLE OF CONTENTS

P

age

MS. MOLNAR: Yes, Assemblyman.

ASSEMBLYMAN ROMANO: I think we heard from the Treasurer, especially with his own appointment schedule, that it would be better for the Treasurer to address this in December than at a later time. So, unless someone has a problem-- As we go along, we will know by our next meeting or two whether December 1 is realistic or unrealistic. If it can be by that time, fine, let's do it.

TREASURER DiELEUTERIO: Quite frankly, if I could-- I am going to take a look every year at the debt of the State. That is a function of the Treasurer that is going to happen, regardless. I am more than happy to report to the Commission if there is-- From my perspective, there has never been a problem in terms of bringing the debt report to the Commission.

Honestly, if the idea of removing that from the responsibility of the Commission was to move forward, I would still be preparing some kind of a debt report and an analysis of debt. I honestly don't mind having a formalized process of presenting the debt report, and I encourage that.

MS. MOLNAR: Do you have a comment, Dave?

MR. ROUSSEAU: I think what is being confused here-- I think what Mr. Davidoff is talking about is-- The Treasurer could still submit his report on December 1 to the Commission. I think what Mr. Davidoff was talking about was that the Commission then having time to look at it, analyze

TABLE OF CONTENTS

P

age

it, take care of that one sentence that says an assessment of a State's ability to increase debt, or whatever, and then the Commission issues its report on debt at some later time. The Treasurer could still do December 1 and have the Commission do it by January 15 or February 1 or something like that. It gives the Commission the ability to reopen-- The Treasurer still does it on December 1 because it's all done. The Treasurer's work is basically done when the CAFR is done. It is just really adjusting things that are in the CAFR.

MS. MOLNAR: Our date has been put at December 1, so you are right. Maybe we can (indiscernible) the dates.

MR. ROUSSEAU: And I think the reason it was put at December 1 was, when these amendments to the law were done, it was just simply put into the section on the Commission's annual capital report--

MS. VILLANE: Right.

MR. ROUSSEAU: --when really you need to look at these things as two separate things. It simply added it to what the Commission had to report on December 1. I don't think there was thought given to that. It really doesn't relate to the capital needs. We can be done on February 15.

MS. MOLNAR: That's a good idea.

Marty.

MR. DAVIDOFF: That is exactly the point. Section 3 of our enabling legislation lists what we have to do each year. Number seven is a

TABLE OF CONTENTS

P

age

report of the State's overall debt. Frankly, I think what we have been doing is-- I like what the Treasurer said, that there is no problem having it formalized each year to make a presentation. If we are going to be realistic about this-- Rather than having a Commission that is-- I like to do what I am supposed to be doing under legislation. Either have us evaluating on our own and still let the Treasurer make his presentation or say that the Commission will have a hearing, at which time, the Treasurer will present his report. We will question him on the report, and then his report will be moved over to the Legislature rather than giving us the responsibility of giving the report to the Legislature saying a report on the State's overall debt and all of these things, and we have no staff to do it.

Right now, the reality of what is happening is that you have a piece of legislation that says that we are issuing a report on the State's overall debt and not the Treasurer.

MR. MORTIMER: I think I need to interject here. Also, in the Commission legislation, and I don't have the section off the top of my head, but it says the Commission may call on whatever State agencies--

MR. DAVIDOFF: To assist.

MR. MORTIMER: --that are necessary. In this particular case, that is what we are doing. The Treasurer has graciously allocated the resources

TABLE OF CONTENTS

P

age

from Public Finance to gather this data -- collate all this data and produce the report. It's the Commission's report. They're acting as staff in a sense.

MR. DAVIDOFF: I know each year we have had a debate about that because -- since it's the Treasurer's report, and it is something, as Mr. DiEleuterio said, he needs to do. You can correct me if I am wrong.

I would say either eliminate a bureaucracy of us formally doing a report and just having us -- have the Treasurer come and talk about it or let's really -- give us the tools to do the job in an appropriate time. If we have to do it in the fall or early winter we will do it. As the gentleman over there said, the Treasury's report, necessarily for the budget, is one thing. Our sitting down on a long-term basis and taking a look at it -- I can do it in July, as far as saying, "Let's take a look at last year's debt and let's consider these long-term issues." If you want us to do it, provide us the tools, in terms of staff, and let's provide us -- or if the wisdom of the Legislature says, "Maybe we built a little bit too much here," then come back and say, "We'd like you to meet with the Treasurer and review the debt and comment on it and that is about it."

That is the dilemma, and I guess the meeting here-- I appreciate everybody coming. It's for us to talk about it and find what makes sense. I view my role here as whatever the legislation says my role is. If we are not doing what we are supposed to be doing, I am asking the legislators to correct it.

TABLE OF CONTENTS

P

age

MS. MOLNAR: So you are suggesting a legislative change to the statute.

MR. DAVIDOFF: I just want an alternative. Either -- and it is part of the whole thing. If we are going to have staff and if we are going to do it, we may be able to still do it in a December time frame if we are going to have staff and if we are going to then be asked to really do this. Most of the people on the Commission are members of the administration or the Legislature, and only one-third of us are public members. I guess we are the Aoutside@coming in and taking a look, and we are just trying to do that as best we can.

MS. MOLNAR: Could we talk about staff before Jim leaves?
You did an analysis. Did everybody get a copy?

MS. VILLANE: They are over here if anyone didn't get them.

MR. DAVIDOFF: Do you want me to explain the context of this?

MS. MOLNAR: Yes, it's approximately \$250,000.

MR. DAVIDOFF: It was supposed to be passed around. I guess it is coming around now.

The context of this is that Caroline got on the phone and said, AWhat do we think we need?@ But we didn't have any data as to what fringe benefits really cost or anything else, so we kind of just put some information figures. The legislation does call for us to have an Executive Director who will

TABLE OF CONTENTS

P

age

be assisted by other -- but we can't hire an Executive Director because there is no budget. We don't have an independent Executive Director. Paul is terrific, believe me. It's just-- I think, sometimes, we put him in a funny position because, in effect, we are making proposals on Treasury, and the Governor may have different views. It may be hard for him to exercise independence as the Legislature wants this Commission to do.

MS. MOLNAR: Based on my discussion with Paul, there are times when he has to wear two hats. I can't speak for him, but it might be easier if he didn't have to wear the two hats. He does a marvelous job.

MR. SHIDLOWSKI: It becomes difficult at times to balance the role that we have for the Commission and the duties that we also have as employees of the Department of Treasury. I would have to say that I feel that I have never compromised my responsibility to the Commission.

I have been associated with the Commission, in some concerns, for many years, when the Commission had had a paid Executive Director in the past, and I was a member of Capital Planning at OMB, and we had staff then. I would have to say that in some sense it-- The fact that I have this bit of schizophrenia regarding the Commission and OMB it works to the Commission's benefit because I think we give more information to the Commission than may have been available when there was a separate Executive Director.

TABLE OF CONTENTS

P

age

TREASURER DiELEUTERIO: If I could, Madam Chair, I would just like to comment that several of us in Treasury, by the nature of how the Department is organized, wear multiple hats, and Paul does a very admirable job of it, sometimes to my constringation, but he, nonetheless, does it.

By acts of the Legislature, I sit on 58 boards and commissions, as well as have statutory oversight of all the divisions of Treasury. I would just suggest to you that we have an institutional tradition of wearing multiple hats. I think there is a very long-standing recognition of the need for some of us to wear multiple hats. If-- I would appreciate hearing if anybody on the Commission has seen a particular problem with respect to that. I don't believe that has happened.

MS. MOLNAR: Well, when I was appointed by Governor Kean, we did have independent (indiscernible). Sometimes the person brings a different spin on it, and they may push things for the Commission slightly different than a employee would. Other than that--

SENATOR KENNY: Is that person paid?

MS. MOLNAR: The person was paid back then. It was Bob Preston, and prior to him, Bill Eldridge had it.

MS. VILLANE: He was an employee of whom, the Legislature?

MR. SHIDLOWSKI: Bob Preston was an employee of OMB.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Oh, he was -- Bill Eldrige, and the independent was Gene Shnyder.

MS. VILLANE: Who were they employed by? Was it the Legislature or the executive branch?

MR. SHIDLOWSKI: It is a miscellaneous executive Commission. They were employed by this Commission.

MS. VILLANE: The executive branch.

MS. MOLNAR: So it is around \$250,000.

ASSEMBLYMAN ROMANO: One question. Does that mean that Paul is out?

MS. MOLNAR: He could apply for the job.

TREASURER DiELEUTERIO: It means I have to give him a raise, Assemblyman. (laughter)

MR. DAVIDOFF: Of course you're saving in the Treasury budget.

MS. MOLNAR: True.

TREASURER DiELEUTERIO: I think that part of the issue is -- do we need to spend \$250,000 of State budget resources to fix something that, frankly, from my viewpoint, isn't broken?

ASSEMBLYMAN ROMANO: Please allow me-- I have reviewed this again because I have read this document several times. Actually, if we get

TABLE OF CONTENTS

P

age

the bottom number on the report that the Treasurer gives us, as I look into this year, we're not talking about a one-member staff, you are talking about going in-- When you say expectations of five years, there is not one person who is going to do it. This report, in itself, becomes quasi-political. When one says, AHow can you raise the debt, should you raise the debt? Shouldn't you raise the debt?@ now you are going to become political in here. I mean, it has to sneak in. Is there anybody here who is going to say that you have spent too much and to stop?

As far as the report, if we can find some way to produce a report without having to start a new department-- When you talk about forecasting of debt and how much should it be and is it too much, you have more than one person in here. Now you are talking about high finance, that is, unless you are going to hire somebody out of Merrill-Lynch.

MS. MOLNAR: Maggie, you had a comment.

MS. VILLANE: Correct me if I am wrong, but I believe that the Capital Budget and Planning Commission (*sic*) can use the services of other State agencies as we need. If there is a need for this Commission to use services from OMB or from Public Finance and those people are already on the payroll and they are already doing their jobs and -- as the Treasurer said, people wear many hats, like myself -- I think that is the way we should go. I don't think there is a need to spend \$250,000 for this.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Marty.

MR. DAVIDOFF: A couple of things.

First of all, the fact that we have a budget for this department of \$250,000 doesn't mean that there be, almost, direct savings from other areas that are doing some of the same function. Second of all, as the Assemblyman said, we need a staff of many people to do this. While they would still be calling upon the Treasury for doing a lot of the work, we would just have an independent independence about it.

The other issue that comes in here as a side issue is the following. The Legislature has not chosen to act on this, and this is one of the issues that I have raised as a Commission member: If we are looking at the overall State debt, shouldn't we be looking at the debt of the Authorities which are not technically State debt? The Treasurer has made it clear, and he is correct, in that it is not State debt. Possibly, as an independent Commission, we can go to the Authorities and have the Authorities in for some hearings to talk about their debt and make sure they are going to have the income to cover it. That would require a legislative change, to say, all State debt. For this purpose, State debt means debt of the Authorities. The Treasurer, generally, does not report on that because it is not the full faith of the State behind each of these Authorities. That and the other reason for possibly having an independent or at least an Executive Director and a very small staff at the top would be to

TABLE OF CONTENTS

P

age

allow us to independently take a full look at the State debt, if that is going to be our job.

Again part of this meeting is-- I, as a Commission member, want to be responsive to what the Legislature and what the Governor would like this Commission to be doing on an ongoing basis. The structure seemed a little bit fuzzy to me.

Those are a couple of the issues. If the Treasurer has some comments on that, I would like to hear that on that last piece about the Authorities.

TREASURER DiELEUTERIO: I think we have been-- Frankly, we have been through this discussion a few times over the last couple of years.

MR. DAVIDOFF: Just bringing everyone up to date.

TREASURER DiELEUTERIO: A couple of comments. My reasoning and my opinion have not changed from what I have previously stated, that the debt report, as submitted, includes debt that is directly on the State's books, and I believe, honestly, should include that debt but should not include the debt of the Authorities because again, by acts of the Legislature, the Authorities were specifically created and given the ability to issue debt for a specific purpose. That is not backed by the full faith and credit of the State.

MR. DAVIDOFF: I agree with that.

TABLE OF CONTENTS

P

age

TREASURER DiELEUTERIO: Frankly, if we-- I think, if we begin issuing reports and evaluating all of that -- all of the debt as a single entity, that perception becomes the reality. Pretty soon it becomes -- there is no difference between the debt that is issued by an Authority and debt that is issued by the State government. Legally, by act of the Legislature, there are differences.

The second thing is that, yes, you are also correct that all of that information is available from either the CAFR or annual reports or other reports that are issued by those Authorities. Again my opinion is still that the Authority debt should not be pulled into the debt report that I submit to this Commission.

MS. MOLNAR: Robert, you had a comment.

MR. ROTH: Yes.

This debt report that we are asked to do is really a secondary function. I think you really want to look at what the main function is, and the main function is to take a look at every department's capital budget and make a determination as to what is necessary and what is not. I think that main function has been met quite well. All you really have to do is look at the numbers that finally went into the State budget each year, which were very close to what this Commission has recommended in all cases. I think this Commission has met that responsibility quite well.

TABLE OF CONTENTS

P

age

With respect to the hiring of staff, which the way I read it is basically to be utilized, primarily, to analyze the debt statement because, obviously, we don't need additional staff to do the main function because we have been doing it for so many years all along-- To hire additional staff to analyze the debt may just be a waste of money. I think-- There is certainly enough expertise in the Department of the Treasury and elsewhere to make a determination as to what we can afford and what we can't. Ultimately-- We don't like to talk in these terms, but ultimately, the decision on how much you are going to borrow is political because, if they borrow it -- if these gentlemen authorize legislation that borrows too much and the voters don't like it, they are out of their seats. That is really what it boils down to.

Are we really going to be spending \$250,000 to analyze something that, perhaps, has no meaning in the end? I would not recommend we do so.

MS. MOLNAR: Assemblyman.

ASSEMBLYMAN ROMANO: Madam Chair, on this issue-- How about a trial period for next year? Just follow me while I am saying this.

Given the fact that we can reach out to any governmental agency, we can fill that report, perhaps, through the Treasurer's Office -- be so kind to contact -- I don't know if you have to pay them -- who would give you that sort of information about your bonding capacity, etc. Am I correct?

MS. VILLANE: We get that.

TABLE OF CONTENTS

P

age

MR. MORTIMER: We can give it, but I doubt it would be without fee.

ASSEMBLYMAN ROMANO: That is what I am saying. There does have to be a fee to come up with that sort of material, unless-- How often are those reports published?

MR. MORTIMER: Which reports are you referring to?

ASSEMBLYMAN ROMANO: Well, the capacity -- triple A, etc. That is what they are.

MR. SHIDLOWSKI: Typically, the debt report does include the Moody's medians, and sometimes the debt rate income Standard Poor's and--

ASSEMBLYMAN ROMANO: Paul, can you get that information?

MR. SHIDLOWSKI: Some of it is available if you are a subscriber. The State of New Jersey is a subscriber. We normally include that information in the report that we present to you all.

ASSEMBLYMAN ROMANO: They refer to it right here by municipal serving as security's rating services.

MR. SHIDLOWSKI: My understanding -- and I am hardly an expert in public finance, but in speaking to those who are, they tell me that that phrase doesn't really have all that much meaning in the world of public

TABLE OF CONTENTS

P

age

finance. As many folks that you went to for opinions are the number of opinions that you would get.

ASSEMBLYMAN ROMANO: Pick and choose, you mean.

MR. SHIDLOWSKI: Yes.

MS. MOLNAR: Senator Littell.

SENATOR LITTELL: You know, the important thing is how much you spend each year and not the capacity. If you take the last 10 years -- I looked at it, and it runs between 2.8 percent and 3 percent or maybe 3.1 percent of the total spending. That is a very modest amount. I think that is the key. It is not to get that--

ASSEMBLYMAN ROMANO: Just let me-- When you said that is a modest amount, by whose standards?

SENATOR LITTELL: Well--

ASSEMBLYMAN ROMANO: You are not wrong, you are correct if we are talking this way. Someone else would say it is too much.

SENATOR LITTELL: That is just my opinion.

I think, if you have looked, they have been pretty consistent in keeping that range.

Isn't that right, Paul? (no response)

MR. MORTIMER: Part of the reports that we have gotten in the past do give us a context of what our capital spending is compared to other

TABLE OF CONTENTS

P

age

states. If you remember last year's report, then the Senator is correct. The numbers were-- We were certainly not out of the midrange of what most states were doing. There are clearly other states that are spending 5 percent, 7 percent, or 8 percent, and there are very few that are spending much less. So part of the reporting process that comes with the debt report does set into context for us the amount of debt we've issued, the amount of annual debt service that we're covering, and the debt capacities that we have based on the economic indicators that are relevant to the--

ASSEMBLYMAN ROMANO: Okay, that's the point. The debt capacity based upon the indicators.

MR. MORTIMER: Right.

ASSEMBLYMAN ROMANO: I just have a question to you, Madam Chair.

MS. MOLNAR: Yes.

ASSEMBLYMAN ROMANO: Paul, do you feel overworked?

MR. SHIDLOWSKI: At times.

MS. MOLNAR: That was my question. I was going to say that sometimes during the year Paul is very busy, and he has to give lower priority to the Commission.

ASSEMBLYMAN ROMANO: I don't mean that sarcastically, by the way.

TABLE OF CONTENTS

P

age

The point I am making here is that if Paul (indiscernible) and now we are going to be allowed -- who is right in the legislation anyway -- to utilize agencies right here-- Again, we have Mr. Clooney (phonetic spelling) in the back row over there. Notice he is very quiet. He's not looking for another job. We can get this information. Because if we have to get this on our own-- And you are saying a Director and one person. It's like reinventing the wheel here.

MS. MOLNAR: Can I throw out another idea? Perhaps Paul needs a little more help on his staff. I hate to add jobs to your office. His staff is very small, and sometimes during the year, he is very busy, and he has to give lower priority to the Commission. Our's goes on the back burner at certain times of the year.

MR. SHIDLOWSKI: Again that is the balancing act and the way the Commission's schedule has been working for the last several years. It works out.

MS. MOLNAR: We didn't meet in March because you were swamped.

MR. SHIDLOWSKI: That is true.

MS. MOLNAR: That was a function of your schedule.

Marty wanted to meet in March. Whereas--

TABLE OF CONTENTS

P

age

MS. VILLANE: What would be the need to meet in March? Our recommendation to the Governor for capital expenditures would already be done.

MS. MOLNAR: No this other--

MR. DAVIDOFF: We wanted to have this meeting in March.

MS. VILLANE: So then we could have that after the budget has been passed. I don't think there is a need to hire staff people to accommodate the schedule of the Commission. If you are going to look at the debt, it doesn't have to be done before-- Our capital, like the other public members said-- Our main job here is to recommend capital projects. If that is our main responsibility and we need to do that before a certain date and these other ancillary things are after that, I don't see the need to hire any more staff. If he is able to use staff at OMB and at other State agencies, I don't see the need to have \$250,000 put towards this project.

MS. MOLNAR: I am thinking more clerical for Paul and his staff. He has to put this all together. When we meet, in two weeks, he has to pull all of this together himself. He gets some help-- Perhaps whatever department you are in -- OMB--

MR. SHIDLOWSKI: OMB.

MS. MOLNAR: Is there any way OMB could dedicate one-fourth of the body--

TABLE OF CONTENTS

P

age

MR. MORTIMER: I don't want to give away Paul's secret.

MS. MOLNAR: I am just wondering if OMB can give--

MR. MORTIMER: If Paul doesn't do this all by himself-- He does have the resources of OMB, as well as Public Finance and the Office of the Director of the Division of Administration in Treasury. So-- I think the issue that Ms. Villane has raised is the correct one. There are cycles within cycles to make sure that when the decision makers, whether they be executive branch or the legislative branch, have to make the decisions they are required to make, the cycles are timed to deliver the data on a timetable that has been set by the decision maker.

MS. MOLNAR: Does OMB have flexibility to give some help to Paul during certain times of the year? I am not familiar with the workings of this.

MS. HIGGINS: There is some flexibility, but as Paul would have suggested, during the peak times everything is pretty much stretched. That is during the budget peak.

MS. VILLANE: And that is what our work is all about. Most of our work is all done by that point. Our recommendations have gone to the Governor, to the executive branch for inclusion in the budget.

MR. SHIDLOWSKI: There is some overlap that we have between what we do for this Commission and what we do for OMB. But we utilize the

TABLE OF CONTENTS

P

age

work that we're doing for this Commission -- gets directly translated into what we are doing for the Governor's budget. That works out fine. Then, in the period when we really need to concentrate, which is generally January and February, we don't meet as a Commission, and that allows us to concentrate on that.

MR. DAVIDOFF: Carol, I think I could wrap one thing up.

MS. MOLNAR: Sure.

MR. DAVIDOFF: I sense there are only two issues here and one of which we should make sure not to forget. We never get a report, not ever, in the two or three years that I have been on the Commission -- we never get a report on the December 1 date.

I would ask for remedial legislation for December 15 for our report -- to change the December 1 date to December 15. This year, we have it scheduled for December 11. Two years ago it was December 10. It seems not to cause a problem for the Legislature. So just one technical-- I would ask the Chair to survey a membership with our legislators, and if that's our consensus, at least that one piece can go on, and we can get that.

And I have another issue, but let's do that first.

MS. MOLNAR: All right.

Janice, you had a comment.

TABLE OF CONTENTS

P

age

COMMISSIONER MINTZ: I did -- only that I wondered whether it would be new to the Commission and new to this process-- Has this Commission requested additional help at certain points in time and either been rebuffed or--

What I am thinking is that if you are talking about an allocation of resources, bodies, administrative assistants during what this Commission considers to be priority action times, perhaps there is a middle ground or, as the Assemblyman suggested, a phase in of these steps that the Commission ought to be taking. Have we made requests at times where Paul has been committed that have gone on deaf ears either by the Treasurer or by senior officials in that Department? And if so, perhaps, with the Treasurer having been a part of this discussion today and with the Deputy Treasurer here, and so forth, we could take steps to request that additional help rather than feeling our hands are tied if, in fact, Paul is diverted to other duties. Perhaps we could start with that. As Maggie has suggested, if in fact the resources don't all come from the executive branch or from the Department of Treasury proper, maybe there are other resources either in the executive or legislative that we may be able to tap into to help carry out our functions.

I guess I am suggesting that there may be more than one way to skin this cat.

MS. MOLNAR: Marty.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: On that issue-- I just want to reiterate-- On the capital -- as you said before, on the capital budget side I think we are doing an excellent job. I think the staff gives us the resources. They seem to give us independent questions. They think they are doing an excellent job.

I think on the debt, we are taking and regurgitating it. I don't think we are doing anything independent as a staff. That is one of the reasons that I came. That is really the second issue. If we are supposed to be doing it independently, we are not. If that is what the Legislature wants us to do, it is not happening. Something would have to change for us to be doing that independently.

SENATOR LITTELL: Well, you are doing a good job. The problem is not that you are not doing a good job. The problem is that as it goes through the process, the administration and then to the Legislature and gets passed, that capital needs and especially deferred maintenance get put aside. It is easy to cut them because there are very few advocates for that. I have been speaking out on it because I think it is something that is badly needed. Senator Kenny speaks out about it because he knows it is a problem. But you are doing a good job. We're not appropriating enough money in the budget to deal with the problem. You keep getting the same projects back year after year. The same people come in and testify, and you recommend them--

MR. DAVIDOFF: You're doing better from last year's budget.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Got more money.

SENATOR LITTELL: Well, we are hoping to better next year.

MR. DAVIDOFF: We're also, on our end, and I know you are not at a lot of our meetings, trying to hold the agency's feet to the fire to make sure we are getting the highest priority stuff in to you. On that end, as I said, I think we are doing a very good job, and our staff is doing a very good job with us.

MS. MOLNAR: So the gist, I feel, is our crunch is ahead of the crunch of the State. There is some overlap, and I felt the overlap occasionally. I have asked for stuff--

MR. MORTIMER: Clearly, Chairwoman, from the date of the Governor's budget message -- actually a few weeks before it -- until after the adoption of the budget is a crunch period for OMB and everyone related to the budgetary process. The normal actions of this body are all cycled to take place before that begins. As Maggie said, if it is an ancillary request that comes up, then frankly, from the Treasurer's point of view, we would ask the indulgence that it doesn't get asked to occur prebudget adoption. Starting July 1, resources get freed up and discussions like this can occur.

MS. MOLNAR: So from January 20 to July 1, it is tough.

MR. MORTIMER: For a lot of the parties that are represented at the table.

TABLE OF CONTENTS

P

age

MS. MOLNAR: So we really can't meet or do much between those six months.

MR. MORTIMER: I wouldn't say we can't

MR. SHIDLOWSKI: We have had--

MR. MORTIMER: Limits.

MR. SHIDLOWSKI: We have had meetings when there was action that needed to be taken by this Commission vis à vis Building Authority project reports. This Commission must approve those before they go to the Legislature for a joint -- adoption of a joint resolution. Whenever that has happened, we have always had those meetings. I don't think we have impeded any business that needed to occur.

MS. MOLNAR: Mr. Annese, you had a comment.

MR. ANNESE: It appears, Madam Chair, as we have discussed this for the past hour or so, that there is a consensus that has evolved knowing this work session. That is that we have, pretty much, exhausted the legislative issues on our agenda and that the consensus is that we're, pretty much, on target. We have been making incremental changes over the past few years. Those changes are what they should be, and there doesn't need to be any major changes to be done. I think we can move on and move the agenda forward and leave the legislative issues as they currently are.

MS. MOLNAR: Can I recap?

TABLE OF CONTENTS

P

age

The first item -- the debt report. It seems that there is a consensus to leave that for December 1.

For the second item, capital recommendations, Marty raises a good point in making it for the middle of December because it never happens on the 1st. That requires legislative change.

MR. SHIDLOWSKI: And again, if I could interject-- Technically, that is true. We don't make the statutory due date, but more importantly, the recommendations of this Commission are reflected in the Governor's budget. Projects, generally speaking, that aren't recommended by this Commission don't get into the Governor's budget. They are not considered for funding.

MS. MOLNAR: That is wonderful. Then that should be an easy change to get a sponsor to just change the dates.

MS. VILLANE: Do we really need to change it, though? By statute, does it say December 1? Who is the calendar police saying, 'Well, you didn't do it by December 10?'

MS. MOLNAR: Beth Schermerhorn.

MS. SCHERMERHORN (Assembly Majority) : I will just make an easy suggestion if the date bothers-- We can do with budget lines every year and blah-blah-blah.

TABLE OF CONTENTS

P

age

I find it very-- I don't think the Legislature will put in a bill to move the date two weeks.

MS. VILLANE: I agree.

MS. MOLNAR: Senator Littell.

SENATOR LITTELL: I think the legislative issues have been debated back and forth. There is one thing that I just mentioned to Senator Kenny, and he agreed with me. Why don't we invite you, as the Chairman, and one other public member to come before the Appropriations Committee and testify about the capital means of the State of New Jersey? Set aside a day just to deal with the capital means problems. That way we can get some more focus publically. The public needs to know, and they are concerned. We do have capital projects that are not proposed by the administration. They are usually done on a district-by-district basis. Sometimes they refer to them as pork, but they are important projects. They are legislative priorities.

MS. MOLNAR: Any comments by Commission people -- members?

Yes.

MR. DAVIDOFF: Yes. I would like-- If it is in order, I would like just to move to ask the legislators to change it to December 15. Somebody mentioned that they won't put in a bill for that, but every year we are late, and somebody says there is no calendar police. But you know what? I kind of like

TABLE OF CONTENTS

P

age

to do things in time. If we can't do it in time, let's just change the law so that we are not always saying, "Well, yeah the law says this, but we are going to do that."

MS. VILLANE: If we do it in budget language, it is easier than having to go through the entire process of putting a bill in, having it introduced, having it held to committee hearing, and having it passed by both Houses. Budget language could take care of it every single year.

MS. MOLNAR: What about the bigger issue that Mr. Davidoff raised about changing the language about the debt report and us reviewing it? Just change the legislation to say that we will hear it and then pass it on to the Governor.

MR. DAVIDOFF: Right now, it is more than a review. Right now, what we have to do is we have to issue our own report, and we are not doing that.

MS. MOLNAR: Yes, we are not doing that. Maybe we should change the legislation to reflect what is happening in reality.

ASSEMBLYMAN ROMANO: Madam Chair, that is the point that they are making. You can make these minutia available in the budget. Senator Littell is right on target. If you care to go before the Appropriations Committee, of which he is a very kind man who will give you every respect,

TABLE OF CONTENTS

P

age

and state what you think you need financially, I know that Senator Littell will carry it through.

Am I correct, Senator?

MS. MOLNAR: But the--

SENATOR LITTELL: Yes.

MR. DAVIDOFF: The debt report is not minutia.

MS. MOLNAR: The debt report is a different issue. We don't assess it and do our own report. It is not happening, as Marty is saying. Maybe the legislation should say we should receive the report.

MR. MORTIMER: Madam Chair, technically it is your report.

MS. MOLNAR: Did we accept it the last time?

MR. ROTH: We accepted it and passed it on verbatim.

MS. MOLNAR: So Marty is raising a point--

MR. MORTIMER: The law outlines that you may use staff of State government. In this case, you have used the staff of the Office of Public Finance, which has a very good reputation both in the State of New Jersey and nationally, as well as staff of other departments -- division of the Department of Treasury. It is this Commission's report, it is not the Treasurer's report. The Treasurer simply comes, as Paul stated, to report to you, in a staff role, on the preparation of the report that you are asked to authorize as your report. That may be, from Mr. Davidoff's point of view, semantics because we didn't

TABLE OF CONTENTS

P

age

have one or two analysts. I agree with the Assemblyman. It would take more than one or two analysts to do an assessment of the kind of report you get prepared for us to be presented to this Commission, accepted by this Commission as its report, and passed on. It is a significant amount of effort, beyond what is proposed here.

So for the sake of gaining a semblance of independence-- I have participated in the session for about a year. I have heard the questioning of the public members, as well as the members of the Legislature and the executive branch. This is an informed body. This is a body that takes its work serious, i.e., we wouldn't debate some of the minutia that we debate because people have spent the time getting into the details.

So, philosophically, I don't believe we need to make a request of our legislative partners to consider changes of dates or intent. This workshop, as was eloquently summarized and provided us with the form that we had talked about having last year -- that was to get an airing of the intent. I think I raised the issue in support of Mr. Davidoff, saying that it would be nice to know what the legislators' intent was for this Commission, as a new member.

MS. MOLNAR: It is unclear to me what the Legislature wanted us to do with this report that they really -- why it was added to the legislation -- to this Commission's duties. It is unclear to me why it was added.

Mr. Rousseau.

TABLE OF CONTENTS

P

age

MR. ROUSSEAU: I would just add one thing as a defender of the Legislature, somewhat, here. Remember, the Governor also signed this change of law. Whoever in Counsel's Office or whoever recommended the changes also had some responsibility on the intent of what an assessment of the State's ability to increase its overall debt really meant. It was not just the Legislature, it was the law. So it was the Legislature and the executive branch.

MS. MOLNAR: Right, but when I got on the Commission, that language was not there, and now it is there. So what does that mean?

MR. MORTIMER: Could I ask for a point of order?

We have a motion, but we don't have a second. Does that--

ASSEMBLYMAN ROMANO: We cannot repeat it because I lost it.

MS. MOLNAR: We had a motion?

MR. MORTIMER: Mr. Davidoff made motion.

MR. DAVIDOFF: For us to recommend the change of date to December 15. There was no second, so I guess it dies.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: The issue that Ms. Molnar just raised is significant in that, technically, it is our report. Frankly, as a Commission member, I don't think I really -- I don't know how I voted on it. I don't think I really felt that it was something that I looked at from an independent point

TABLE OF CONTENTS

P

age

of view. I would ask the legislators to comment. I think it was their intent for us to look at this independently. I don't think we have. I think there is a middle ground between having a slew of analysts and what we are having now.

Frankly, I think the Treasurer's Office did a very good job. I would just say make it a thing that we will pass along the Treasurer's report each year to them. I think there is some misconception that we are really looking at this independently, at least the way the law reads. It says that we shall give a report on the State's overall debt. I know we can use resources, but I don't see us exercising it very much independently. I guess one of the lucky things is that we're in a state that really, financially, is very strong. As the Senator said, we are 2.8 percent to 3.1 percent in the ratings, and in debt we were 7 percent or 8 percent as far as the best debt ratios or the lowest per-capita when you gave us your report last year. We don't seem to have any major problems--

MR. MORTIMER: You prepared your report.

MR. DAVIDOFF: Huh?

My report-- Well, this one says submitted to us, so it wasn't our report yet. I will say that we are fortunate there.

The bottom line is that I don't think that we have any major problems, but the Legislature put this in because they wanted somebody to look at it differently. Maybe it was put in, in the year when the Governor's

TABLE OF CONTENTS

P

age

Office was a different party than the -- I don't know if that is the case-- Maybe it was a different party.

MS. VILLANE: No.

MS. MOLNAR: Nope.

MR. DAVIDOFF: But maybe they were anticipating something like that where there might not be such a great level of cooperation between the executive branch and the legislative branch.

I guess-- I think Ms. Molnar raised the issue. I have raised the issue. If the legislators understand the issue, they can either choose to do something about it or we will continue operating the way we are operating.

I will just say to everybody, because I sort of pushed for this open hearing, I really appreciate everybody coming and taking the time. I am the new guy on the block. You have heard my concerns, and I will step in line and will do what we got to do to do our job the best we can, the way the Legislature and however laws get passed through the executive branch tells us to do it.

ASSEMBLYMAN ROMANO: Madam Chair.

MS. MOLNAR: Senator Kenny.

ASSEMBLYMAN ROMANO: Oh, you had something to say?

SENATOR KENNY: Yes.

ASSEMBLYMAN ROMANO: Go right ahead. (laughter)

SENATOR KENNY: I am speechless. (laughter)

TABLE OF CONTENTS

P

age

First of all, I have not attended as many meetings as Lou Romano, for example.

MS. MOLNAR: He holds the record for attendance.

SENATOR KENNY: But the meetings that I have been at, I agree what Dave Mortimer said earlier about the quality of the people on this body. There is a lot of expertise and confidence. Mr. Davidoff does an extraordinary amount of work on his own. It is somewhat ironic to hear him wanting to give up a review power when he has put so much effort into review of the matters before this Committee (*sic*). If someone were proposing to remove this jurisdiction from us, I think that people would be upset because this is -- the debt issue is something that should be before a body that has public members on it. That was the point, I believe, of the legislative intent. It was to have a body of people with public members on it that look at the debt.

Just because we haven't taken an active role, to date, in looking at that report doesn't mean that next year we won't. It doesn't mean that it wouldn't become an issue. And it doesn't mean that people on this committee whether they are public or legislators or people from the bureaucracy that are involved at any point in time our jurisdiction, with respect to the debt report, would be joined so to speak.

I also feel that independence should not be equated with staffing. Independence is up here. As long as we have the ability to get the

TABLE OF CONTENTS

P

age

information, which we do, from professional people, which we do, then we have the opportunity to analyze it. I think we have adequate staffing. I work on the presumption that people are dealing in good faith. Now, if there are political issues, then it is up to the political people here to raise them. We have the capability to do that, and we have done that from time to time where we have seen what we suspect is some sort of political motivation. That is our ability to address if we see that as an issue.

So I think that the status quo is pretty good. That doesn't mean that we should not change it down the road, but your particular performance on this committee as a public member actually argues against, I think, your point, which is that we have to add some token staff to have an independent analysis. We don't need it. It is a token staff. Lou is absolutely correct. I mean \$75,000 to have somebody come in-- This is a major undertaking to look at these issues. We have the staff and the additional staff and the access to professionals to do it. I would say that, as a compliment to you, you actually have looked at these issues with more scrutiny than I and most of us, I would suspect. I am sure that if the debt issue comes to a forefront for whatever reason, you are going to be addressing it, as will other members. We have the ability to do that.

That is my view on why we don't need to add a \$250,000 line item to the budget.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Senator, eloquently said.

Maggie.

MS. VILLANE: I have a strange relationship with this board. When I worked for the Legislature, I sat on this board as legislative member for Senator Littell.

MS. MOLNAR: I remember.

MS. VILLANE: Now I sit on this board as a member of the executive branch. I agree with Senator Kenny.

SENATOR LITTELL: Double agent, huh? (laughter)

MS. VILLANE: I was a double agent. Who knows, I may wear another hat one day.

I agree with Senator Kenny that we have the resources to use when we need them, and I think this Commission does a very good job. We submit, to the executive branch, the recommendations that we need. If we need information or resources to deal with the debt issue, I think they are available to us, and we should take advantage of those.

ASSEMBLYMAN ROMANO: May I?

MS. MOLNAR: Yes, Assemblyman.

ASSEMBLYMAN ROMANO: Remember once when we had someone from the Attorney General's Office -- oh no, it was Mr. Veniero himself when--

TABLE OF CONTENTS

P

age

MS. MOLNAR: Yes.

ASSEMBLYMAN ROMANO: --when he said, I am not here as your legal counsel? We do have legal counsel though, I believe, through the Governor's Office.

MS. MOLNAR: No, AG.

MS. VILLANE: Probably through the Attorney General's Office.

ASSEMBLYMAN ROMANO: I am not saying this as a charge, but could you possibly notify them and ask them for an opinion on this?

MS. VILLANE: Absolutely.

ASSEMBLYMAN ROMANO: I think--

MS. VILLANE: As the Commission, we can do that.

ASSEMBLYMAN ROMANO: That is--

I didn't know who she speaks to.

MS. MOLNAR: On what issue?

ASSEMBLYMAN ROMANO: The December 1 date to the December 15 date, with the other idea that--

MR. SHIDLOWSKI: I could request that on the behalf of the Commission.

ASSEMBLYMAN ROMANO: On the behalf of the Commission.

MR. SHIDLOWSKI: Sure.

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: But also, can this be handled right in the budget?

MR. MORTIMER: That might be-- The question should be, is budget language sufficient to handle the submission date issue?

MS. VILLANE: The date change.

ASSEMBLYMAN ROMANO: That will put us on record, and we will go from there if we have to wait for a date.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: Understanding the consensus that we are coming to, I would ask, possibly, one thing, and I assume that if just the public members got together with staff over July or August that that would not be a formal meeting. If we wanted to have a workshop on debt -- if we chose to do that-- As far as understanding the complexities of what is going into the report that we will get in November, we might want to consider having a workshop for the public members with the appropriate people in Treasury for us to go through pieces of that. Maybe each year we will go through a different piece so that we understand better than by the time we are here six years.

MR. MORTIMER: I think the Treasurer will be more than happy to have to Office of Public Finance and the folks from OMB, postadoption of the budget, to set up some time to walk through any of the formats.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: Do the other public members think that would be a good idea?

MR. ANNESE: That would be good, not only limited to public members, but any new members of the board who want to know about the process.

MR. SHIDLOWSKI: We need to ensure that no more than seven members--

MS. VILLANE: This sunshine--

MR. ANNESE: If we have to sunshine it, we sunshine it. I see no problem with sunshining that meeting to walk through the process and how (indiscernible).

MS. MOLNAR: Good point.

MR. DAVIDOFF: I think, being that July and August seem to be when they might have time and it is before we get into our busiest time, we might want to look at that as a time frame for us to roll up on the debt piece. As many have commented, I think this Commission, well before I came along, has been doing an excellent job on the evaluation of capital projects. I have learned a lot from my comembers here.

MS. MOLNAR: Thank you.

MR. DAVIDOFF: So maybe we will do that.

MS. MOLNAR: Thank you, Mr. Davidoff for all of your input.

TABLE OF CONTENTS

P

age

We will have to start, at this point, on legislative issues.

We have Herb Simmens from the State Planning Commission who is going to make a presentation. It is not on your agenda so please bear with us. We will jump back to the agenda.

MR. SHIDLOWSKI: It was on the agenda, just not the one that you all have. (laughter)

MS. MOLNAR: Oh, sorry.

HERBERT SIMMENS: Thank you for inviting me.

MS. MOLNAR: Would you like a seat?

MR. SIMMENS: Sure.

Whether I am officially here or unofficially here, I am happy to be here with you today. I take it that most of you have heard, by now, of the New Jersey State Development and Redevelopment Plan. It is a Plan that, for the State's future -- for how land should be used and where growth should occur. It was developed as a result of an act of the Legislature adopted at the end of 1985. It created a 17-member State Planning Commission. That Commission worked for some five years to produce the current State Plan, which was adopted in 1992, and the Commission is now in the process of going through a very extensive and voluminous and fatiguing process of revising the Plan over a two- to three-year period with meetings with every

TABLE OF CONTENTS

P

age

county, with many municipalities, with involvement with key State agencies that are five State agencies that sit on the State Planning Commission.

The bottom line is that when the State Plan was adopted in 1992, the Legislature, before it was adopted, was very concerned that it might have a negative impact on the State in some respects or many respects. So they required the Commission to have an impact assessment prepared and asking the very simple question of what would it mean for New Jersey with the State Plan in place. The impact assessment, which was done independent of the Commission by Rutgers and other universities, showed the state could save -- and I mention this partially because of your role and responsibilities -- that the State -- and not State government, but the State as taxpayers and local governments and, to some degree, State government could save, in excess, \$4 billion or \$5 billion over a 20-year period in infrastructure, operating, and capital cost -- that we can have the full amount of growth projected for the state but use \$175,000 fewer acres of land. In accomplishing that, we would have cleaner water, cleaner air, and so forth. There are multiple benefits by working to achieve the State Plan.

The State Plan, at the local level, was a voluntary process. It's not like the Pinelands Plan, it's not like Meadowlands Plan. The State government, under Governor Whitman's leadership, has been using it to guide State agency investments and to provide extra incentives to local governments

TABLE OF CONTENTS

P

age

that find ways to have their goals and policies consistent with the State Plan.

Where you come in, if you will, is that at the same time that the State Planning Act was adopted by the Legislature, they also amended your enabling legislation to require that the Capital Improvement Program that you recommend every year, shall be, and that is right from the legislation, consistent with the provisions of the State Development and Redevelopment Plan. The simple idea being that if we are doing planning here, capital expenditures ought to be linked to the Plans. We have, at the staff level, been working with your staff over the last few years -- you are having a debate over how much staff, and so forth, with Paul -- to review the requests from time to time and just -- not in any extensive way. Certainly, from what we have seen, there seems to be a real consistency between your recommendations and the State Plan.

The simple reason for that is that the State Plan strategy on capital investments is a very simple one. It says, number one, even though the document is the kind book that they say, once you put it down, you can't pick it up again, it is-- In terms of capital investments, it simply says let's take care of health and safety issues first, wherever they are in the state -- rural, suburban, or urban makes no difference. That is the No. 1 priority.

TABLE OF CONTENTS

P

age

Let's take care of maintenance and rehabilitation of facilities whether they be State or county facilities or local facilities or whether they be roads or schools or sewer systems, or so forth.

After that, let's provide provision for new facilities and new infrastructures and new capacities according to the State Plan.

Again, from looking at the reports and the recommendations that you have made over the last few years or so, the great bulk of your recommendations have dealt with public health and safety issues and State facilities with infrastructure maintenance and repair. As far as we are concerned, there is a total consistency between the State Plan's general direction and the direction that the Capital Budgeting and Planning Commission has undertaken.

This Plan, as I mentioned -- the preliminary Plan is undergoing revision right now. I would encourage you to take a look at it. If you, as individuals or as a Commission or in some other entity, would like to make comments on changes in the wording of our policies, particularly those policies having to do with infrastructure -- that is what we have our cross-acceptance process for, to be able to take input from not just private citizens, but also State agencies, local governments, and so forth.

One other thing I wanted to mention: One of the other provisions of the State Planning Act requires the State Planning Commission to do what,

TABLE OF CONTENTS

P

age

I believe, probably has never been done before. We first did it in 1992. That was to prepare, what was called in the Act, an infrastructure needs assessment where we were asked to look out over a 20-year horizon, not next year, 3 years, or 5 years, but over a 20-year period, what was the situation with regard to the state's infrastructure -- roads, sewers, drainage, water supply, issues like that.

In 1992, we did compile this information based upon what State agencies gave us, what some local governments gave us. We found that pretty staggering number, which I am sure would be no surprise to most, if not all of you, of an excess of \$100 billion worth of infrastructure needs over a 20-year period, the great bulk of which was not for new growth; although, there were \$20 billion to \$30 billion for new growth, which I guess is real money, as Senator Dirksen once said. The great bulk, the \$60 billion to \$70 billion, of that is really to take care of past problems.

Obviously, the Legislature has been working on many of those issues over the years, as have the State agencies, to take care of that. We will be updating that infrastructure needs assessment so that we have the long-term overview of what the state's needs are. If there is any assistance or input you would like to give us, or can give us, into that process, we would be most appreciative.

I think that is really all I have to say.

MS. MOLNAR: Assemblyman.

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: When you said the infrastructure, are you including the roads?

MR. SIMMENS: Yes, that is where the bulk of that \$100 billion -- over \$100 billion--

ASSEMBLYMAN ROMANO: I don't recall the last report that came out. What-- New Jersey is -- what? -- 48 out of 50 in the safety and all considerations of roads?

MR. SIMMENS: That is what the newspaper said.

MR. MORTIMER: That is the North Carolina's professor's report. That is a-- With all due respect, I think most transportation professionals would say you can't use that report. He doesn't give consideration to the lane miles. It has to do with center lane and not all lanes. There is a lot of factors in there.

Has that infrastructure study from 1992 been updated, either in actuality or through any kind of progressive analysis?

MR. SIMMENS: We're just starting that now. We have been sending letters out -- starting to send letters out to State agencies asking for the updated information that they may have because it is not -- we don't really have an independent ability in our office to do that. We are dependent upon the best information the DOT and DEP and other groups and the Alliance for Action, in terms of private groups, can give us. We can sort of sort through all

TABLE OF CONTENTS

P

age

of that. We hope to have that published in the spring or summer of next year and available for comments.

MR. MORTIMER: The Trust Fund renewal analysis, I am certain Senator and Assemblyman, you remember, in 1995 showed that the transportation infrastructure alone was \$150 billion. That was in 1995. It will be interesting to see how much of the other areas--

MR. SIMMENS: These are numbers that are hard to get your hands around. They are so large.

MS. MOLNAR: Senator.

SENATOR LITTELL: What is this voluntary stuff, Kemo-sabe?
(laughter)

MR. SIMMENS: Amen.

SENATOR LITTELL: Doesn't seem that way to me.

MS. MOLNAR: Mr. Davidoff.

MR. SIMMENS: It is, certainly, voluntary at the municipal level.

SENATOR LITTELL: I am glad to hear you say that.

MR. SIMMENS: State agencies are using it-- The same way that this Commission's recommendations should be consistent -- are required to be consistent, State agencies are using the -- are beginning to figure out how they can use this Plan to make State investments and to support communities that are doing good planning.

TABLE OF CONTENTS

P

age

There is no mandate that any community follow the State Plan. We have, unfortunately-- Most of the communities in New Jersey-- We have worked directly with about 100 to 150 or so communities and more and more every day. It is still a voluntary process, and I certainly don't see that changing.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: We recently, either last summer or last fall, changed our capital budget recommendation criteria slightly. Do you-- I know we added to that improving the delivery of services as one of the criteria. Do you have our criteria?

MR. SIMMENS: Yes.

MR. DAVIDOFF: Do you have the new one?

MR. SIMMENS: Yes.

MR. DAVIDOFF: Okay. I just wanted to make sure.

MR. SIMMENS: It looked pretty solid to me.

MS. MOLNAR: Any questions or comments? (no response)

Surprising.

If not, thank you for your presentation.

MR. SIMMENS: People are just, generally-- It's a consensus process, right?

MS. MOLNAR: Right.

TABLE OF CONTENTS

P

age

Do you gentlemen have to leave at a certain time? Because we still have a few items. I want to move things around so-- (speaking to both Senator Littell and Senator Kenny)

Senator Kenny.

SENATOR KENNY: I have a 1:00.

MS. MOLNAR: All right. So we are good for at least a half hour.

All right. Before we loose a quorum as people leave, Paul suggested we just do one administrative item, and that is the election of Chair. I guess I will have to recuse myself on that one.

Do you want to run that section?

MR. SHIDLOWSKI: Okay, let me find my roll sheet here. I seem to have misplaced it.

MS. MOLNAR: Now, I will-- When we get to the bylaws, our bylaws do talk about a Vice-Chair, so we may want to noodle that around later.

MR. SHIDLOWSKI: I need a motion for a nomination.

MR. ROTH: I would like to move Carol Molnar for the Chair. I would also, in that motion, like the board to commend her for the job well done during last year.

MR. DAVIDOFF: Second.

MR. SHIDLOWSKI: Mr. Davidoff.

MR. DAVIDOFF: Yes.

TABLE OF CONTENTS

P

age

MR. SHIDLOWSKI: Mr. Annese.

MR. ANNESE: Yes.

MR. SHIDLOWSKI: Mr. Roth.

MR. ROTH: Yes.

MR. SHIDLOWSKI: Senator Littell.

SENATOR LITTELL: Yes.

MR. SHIDLOWSKI: Senator Kenny.

SENATOR KENNY: Yes.

MR. SHIDLOWSKI: Assemblyman Romano.

ASSEMBLYMAN ROMANO: Yes.

MR. SHIDLOWSKI: Mr. Mortimer.

MR. MORTIMER: Yes.

MR. SHIDLOWSKI: Ms. Villane. (no response)

Ms. Higgins.

MS. HIGGINS: Yes.

MR. SHIDLOWSKI: Ms. Molnar.

MS. MOLNAR: I will abstain.

I would like to thank you for your vote of confidence. As many of you know, I was appointed by Governor Kean to serve on this Commission. When my term came up, I was reappointed by Governor Florio. I was appointed Chair by Governor Whitman, who just reappointed me.

TABLE OF CONTENTS

P

age

We will now move on to item six, Commission issues.

MR. MORTIMER: Madam Chair, just one point of order.

If the law allows us to have a Vice-Chair--

MS. MOLNAR: The bylaws do, too.

MR. MORTIMER: Have we not-- I know we didn't do it last year.

MR. SHIDLOWSKI: The law doesn't speak on the issue of Vice-Chair.

MS. MOLNAR: That is when we got to our bylaws. We noodled around then. We are not prepared to nominate anybody. We haven't discussed the issue.

MR. MORTIMER: I will hold my comments.

MS. MOLNAR: Thank you.

Commission issues, I believe, are the capital budget criteria. I believe Mr. Annese had a suggested addition.

MR. ANNESE: One of the suggestions I had had for our criteria -- if you would take a look at this. It is not a major change, but I think we should make mention, somewhere in the criteria, for continuity of work. The feeling here, in my mind, is that this allows us to fund projects on a year-by-year basis, especially those projects that take many years to do. If we consider

TABLE OF CONTENTS

P

age

continuity somewhere, it puts in writing something which I think we all feel anyway.

MR. SHIDLOWSKI: If I could address that-- On the second page of your criteria, we talked about modifying factors. Amongst those, it is a part of a larger plan. In that context, certainly at the staff level, if we funded design in a particular year, we are pretty amendable toward recommending the construction in its subsequent year. We look at things like that. I think we had that addressed-- If you want to change the wording, that is fine with me.

MS. MOLNAR: It wouldn't hurt to boot that to the front page criteria -- continuity of funding or something.

MR. MORTIMER: What does that mean? I know what the words mean--

MR. ANNESE: Well, for example, like Paul just said, one year we could fund design. If it is a large project that couldn't be completed in one year, it could be funded over a period of multiple years.

MR. MORTIMER: Normally, when you approve a capital program or project that, in many cases, takes multiple appropriations to do it, you do approve the whole project and then the appropriation process just follows along.

MR. SHIDLOWSKI: It happens in a couple ways here. In some cases, we get requests for entire projects where there is a request for funding

TABLE OF CONTENTS

P

age

that is not only design. It would be acquisition of any land, if there was any, as well as the construction portion. That works for us sometimes because, over the years, I can't say that a capital construction funding has been the most reliable source of funding available. Receiving an appropriation this year for design wouldn't necessarily be a guarantee that you would receive your construction funding in a subsequent year.

In some cases, we have-- Over the last couple of years, I would say that the funding has become more reliable. We have gotten a lot of support from the Treasurer and the Governor. We have, in some cases, engaged in design work. We are receiving construction requests and--

MR. MORTIMER: Part of the process-- When a project report is presented to us, like the project reports that are presented to the Building Authority, we could ask, at that time, which sometimes we do receive-- If it is a project that there is a commitment to go forward with and it is just a matter of staging, we're going to do the preliminary design, we're going to design, we're going to do construction, we know it is going to fall out of multiple years, that project report could lay out and the group could evaluate the project and improve it in all its phases subject to an annual review to make sure that the changes meet the recommendations made. That would then give the criteria built into the initial project-- We would, only then, have to review those projects that either in their inception we didn't know enough about because

TABLE OF CONTENTS

P

age

perhaps at the moment of inception, without having preliminary design done, we didn't have enough cost information.

MR. ANNESE: What is also on my mind, too, is that we have been requiring more and more from various departments to project out four and five years. All this does is clean up the process a little bit. If you feel it is not necessary, I have no objection.

MR. MORTIMER: I am just wondering if asking for the project report submissions to be more consistent with a project report à la the financing plan that most of them have to go to the Building Authority for or some other financing agency-- Whether it be EDA or the Building Authority, they ask for a project report that takes it from beginning to end.

SENATOR LITTELL: There are projects that get held up for a variety of reasons.

MR. MORTIMER: Yes.

SENATOR LITTELL: I think that ought to be communicated back to the members of this Commission.

MR. MORTIMER: Yes. I agree with you, Senator, on the annual basis, but in order for us to evaluate them from a ranking point of view to decide which programs we would like -- which project we would like to recommend to the Legislature-- If the project report that we get from the initiating agency says this project is going to have four phases, here are the

TABLE OF CONTENTS

P

age

breakdowns of the preliminary design -- design construction, here are costs associated with them as we know them today, we can then put them on a list of projects we are recommending for the Legislature to consider knowing -- letting the Legislature know in our transmission that this will require consideration in each of the budget years that those phases fall in. If something falls to the wayside, it is going to be picked by the annual reviews that we make with the departments of the ongoing projects that we are required to report on. It adds weight. That way we get the data in such a manner that-- I think what Tony's request was trying to do was rather than us have a project only be approved to go to design-- The next year, after we have spent \$1 million on design, it comes back before us for construction without any guarantee that it is ever going to get to construction.

Is that what you were looking for?

MR. ANNESE: If you are comfortable with it. If Paul is comfortable with it.

MR. SHIDLOWSKI: I am not sure how to word that in the criteria, but we can speak--

MR. MORTIMER: My suggestion, if the Chair-- We can ask for Paul and the Executive Director from the Building Authority--

MS. MOLNAR: Okay.

TABLE OF CONTENTS

P

age

MR. MORTIMER: And they come back with a format for us to review for project--

MS. MOLNAR: So it would not be a separate criteria, it would be more of a presentation format.

SENATOR LITTELL: Do we have a provision that requires a time line be established for the project?

MR. SHIDLOWSKI: We do not.

SENATOR LITTELL: I would be helpful if you had that.

MR. MORTIMER: That is what the project report does as well, Senator. It lays out a time line, the critical path, the stitches that need to be made, potential sources of funds beyond the one entity. It is a pretty conclusive -- all-inclusive document. The departments are used to filling them out because they prepare them for the Building Authority or the EDA or other funding sources.

SENATOR LITTELL: So it is available.

MR. MORTIMER: Yes.

MS. MOLNAR: Any other input on-- I guess I jumped down the criteria without going to the role and objectives. Anything on criteria?

Robert.

MR. ROTH: I was wondering if it would be appropriate to put some comments in there as to the impact or future savings that would result

TABLE OF CONTENTS

P

age

from a project. For example, we have this compliance with State and Federal laws and regulations listed down near the bottom on the priority.

MR. DAVIDOFF: Right under it has future operating costs.

MR. ROTH: Okay, I am sorry.

I think it should probably be raised to a more visible spot.

(laughter) If you are looking at something like underground storage tanks where the fine can be enormous amounts every day adding up to multimillions of dollars, it only requires a fraction of that as an investment into infrastructure to clear up the problem. I think that should become your No. 1 priority. Spend \$1 million and save \$100 million in Federal fines. I think that is something that should be raised in elevation from where it is.

MS. MOLNAR: Well, there is no priority to these.

MR. ROTH: These are not listed in priority?

MS. MOLNAR: Listed in order of priority. I stand corrected.

MR. DAVIDOFF: It is hard to put it above any of those others.

I guess we can put it above compliance with State and Federal laws.

MR. MORTIMER: Do the criteria that are listed as -- they are not numbered, but No. 2, 3, and 4, aren't they, basically, all synonymous? It is all program space. Whether in Corrections it is bed space--

TABLE OF CONTENTS

P

age

MR. SHIDLOWSKI: Well, actually, there is a difference between bed spaces and program spaces, at least in our mind. In the one case, you are actually talking about cells and--

MR. MORTIMER: Program area for-- I know.

MR. SHIDLOWSKI: Yeah, program area.

MR. MORTIMER: But if you say-- It is just that you have three criteria-- Are you saying that bed space is the most important criteria that we want to preserve?

MR. SHIDLOWSKI: In our mind, we think that is the very most important investment we can make, to preserve the viability of the bed spaces. Without them--

MR. MORTIMER: What is the difference between institutional program space and program space?

MR. SHIDLOWSKI: I think that would be more like human services facilities.

MR. DAVIDOFF: I have a suggestion, Madam Chairwoman.

MS. MOLNAR: Sure, Marty.

MR. DAVIDOFF: Regarding your comment--

MR. MORTIMER: One of them is redundant.

MR. DAVIDOFF: Maybe at the top we can put a hierarchy of criteria used to evaluate requests and then add the following parenthetical All

TABLE OF CONTENTS

P

age

of which should be considered.® That way nobody is going to say, ®Well, we are not going to consider operating costs down at the seventh priority.® At least this way--

SENATOR LITTELL: How about all of which could be -- must be complied?

MS. HIGGINS: No, because it don't save money.

MR. DAVIDOFF: It is part of an evaluation. All of which we should, as a board, be considerate of.

MR. SHIDLOWSKI: I don't think you would strictly want to base the decisions just on a reduction in operating costs. That is important, but in some cases, we have human services facilities that are subject to accreditation. If we don't make-- We are receiving Federal money now. If we don't make the investment, we could lose the accreditation. That wouldn't reduce operating costs; on the contrary, if we fail to make that investment. On the other hand, if you make the investment, you are not going to get a reduction in operating costs. I think they will just stay as they are.

I don't think you would want to make your review just on any of these individual criteria. You need to have some balance.

MS. MOLNAR: Well, Marty's language was to consider them, right?

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: It was to say that all of which should be considered.

MS. MOLNAR: At the top?

MR. DAVIDOFF: It would say, 'The hierarchy of criteria' - I am sorry. It would say, 'The hierarchy of a criteria used to evaluate capital requests, all of which should be considered.' We are adding all of which should be considered before the word are.

MR. ROTH: I think the word hierarchy-- Through the Chair, I am sorry. I think the word hierarchy implies that these are in order. One has a higher priority than the other. Maybe we ought to remove the word hierarchy.

MR. SHIDLOWSKI: I would have to say that this is the way that we reviewed the projects and this is way that we recommend them to you. We, in our minds, have a hierarchy.

MS. HIGGINS: Without a hierarchy I think it is difficult to distinguish between projects. So I would say, if you are not comfortable with the hierarchy, please revise it. I would prefer a hierarchy of sorts.

MR. DAVIDOFF: Hum.

MS. MOLNAR: Mr. Davidoff.

MR. DAVIDOFF: A second amendment that might help in your problem -- where it says projects that reduce operating costs-- You were

TABLE OF CONTENTS

P

age

mentioning about million dollar fines. We might add that to say projects that reduce operating costs and avoid incurring future costs-- Well, you have to be careful. We're not avoiding -- future--

MS. MOLNAR: Well, above it is compliance, so it is Federal laws.

MR. DAVIDOFF: The thing is if we are trying to maintain operating costs, as opposed to getting them to increase, by replacing something I guess to minimize -- projects that minimize operating costs.

One other change--

MS. MOLNAR: Yes.

MR. DAVIDOFF: On the last one, projects expand program space or approve the delivery of services--

MR. SHIDLOWSKI: That was your wording, Mr. Davidoff.

MR. DAVIDOFF: Except for the fact that I had the word government in it. I would like to put that back in.

MS. MOLNAR: Delivery of government services?

MR. DAVIDOFF: Yes. That was with the word government -- part of my word. I have it written here.

MS. MOLNAR: Any other--

MR. ROTH: Mr. Shidlowksi, question.

I would like to know the logic in listing compliance with State and Federal laws below preservation of space.

TABLE OF CONTENTS

P

age

MR. SHIDLOWSKI: Okay, let's see if I can go through this.

Some of the-- For example, the underground storage tank. We have many -- 1500 underground storage tanks in the state, and they are in various conditions. There was a Federal deadline. If we have an office that is working with the Federal government Energy and Utility Management, and they are responsible for all the underground storage tank projects in this state-- There is, actually, no group that is empowered to enforce that Federal regulation. So if we are continuing to show progress towards meeting the Federal goal, in our mind, that doesn't have quite the urgency that keeping bed space in a particular institution viable has.

MR. ROTH: Okay, it is pure semantics. If, in your mind, you're working with the Federal government to meet your goals, you are compiling.

MR. SHIDLOWSKI: We are compiling. In strict terms, we probably will not be in compliance with the Federal regulation. On the other hand, we're working to meet goals, likewise with the ADA projects. We are not totally a state that is in compliance. We are continuing to make progress against goals.

With regard to-- I think we also include in that -- in the State regulations, for example, I think we include building Code compliance. In a lot of cases, we have facilities that were out of compliance now. They were in compliance when they were built. There have been subtle changes in the Code

TABLE OF CONTENTS

P

age

over the years that caused those buildings to be out of compliance with the Code but not unsafe.

It is a bit of a balancing act. This is the way that we saw it. If you all see it a little differently--

MR. ROTH: I can't say I disagree with your logic. I just wanted to understand it, that's all.

MS. MOLNAR: Any further discussion on this point?

MR. MORTIMER: You had suggested, Paul, that the way that the staff looks at the projects is to apply these criteria against them to see which one advances the highest order.

MR. SHIDLOWSKI: That is true.

MR. MORTIMER: Is there a weighing process to the application of the criteria?

MR. SHIDLOWSKI: There is not a formal weighing process. It's is a definite process that we all go through. We sit down and go through the projects and look at them in light of the criteria. There is several layers of review that happen. We don't actually assign weights to the various projects.

MR. MORTIMER: I might suggest, then, to pick up on something that Mr. Davidoff said earlier-- I think it might be helpful for the Commission members, at a nonpeak period of time, to understand how the staff does evaluate projects that end up being recommended as the highest, not

TABLE OF CONTENTS

P

age

so much to move you away from where you are, but to understand the critical thinking and analysis that you apply to the project pool.

MR. SHIDLOWSKI: We do provide a summary of the recommendations and an overview of the logic that we are employing--

MR. MORTIMER: It might be helpful to actually walk through some of the project lists and walk through some of the projects and say, "Why, for example, did this particular project end up being as highly considered as opposed to another." From an illustrative point of view, at least the Commission members would have a greater understanding of how the recommendation they have gotten was actually developed.

MR. SHIDLOWSKI: Okay. That is fine with us.

MR. MORTIMER: It is like a post-July discussion.

MR. SHIDLOWSKI: Yes.

MS. MOLNAR: Thank you.

Any questions or comments? (no response)

I skipped the role and objectives of the Commission. We have discussed it a little bit with the Treasurer here. Is there any other issues you want to raise on the roles and objectives? Marty has raised a few, but it will help with any others.

MR. MORTIMER: I had one. I did discuss this briefly with the-- I would be interested in hearing the Senator and the Assemblyman's interest

TABLE OF CONTENTS

P

age

on this. We have a number of Authorities and Commissions, right now, involved in the capital process. We have the State Building Authority, EDA, the State House Commission, etc. In many ways they overlap. As I pointed out earlier, we have, with the departments, presented project reports from the executive branch to the State Building Authority in a format and through a style that takes a lot of time for them to prepare. Similarly, they make presentations to this Commission on the same projects. It is not just a matter of getting the reporting processes to look the same so that we can take advantage of the work, at some point.

I know the conversation we had last March -- when we raised this issue last fall, excuse me-- Is there a line that we need, either from a relationship point of view or from a division of work point of view -- that we need to revisit in the roles of all of the capital programming entities to end up with a cleaner, more focused process, one, but also making sure that the limited resources that each of these Authorities or Commissions have are not being put to double task?

SENATOR LITTELL: That is pretty hard to answer off--

MR. MORTIMER: I appreciate it.

SENATOR LITTELL: --the top of my head. Somebody ought to sit down and analyze it first.

TABLE OF CONTENTS

P

age

MR. MORTIMER: The suggestion was to have a matrix, perhaps, provided to the Commission by the Executive Directors of four or five of the capital Authorities where the activities are similar and the timings are similar and the products are similar. Most of it ends up coming to the Legislature throughout the executive branch for decision making. I am certain the number of reports that you each get, as you go through the process-- I know in the last year, having moved from DOT to Treasury, I have become infinitely aware of the versions of capital reports on the same projects.

SENATOR LITTELL: It would require that the departments and agencies talk to each other.

MR. MORTIMER: Interesting thought. (laughter)

MS. MOLNAR: Are you suggesting the Building Authority go direct--

MR. MORTIMER: No. What I am saying is that we have a lot of effort being expended by a lot of people, both paid and volunteers, developing decisions about the same things, not always in a continuum. The decision makers who get the output from those bodies, the Legislature and the executive branch, are getting multiple reports, if you will, on the same issues. Rather than that being the end product, we would have a distillation of all of those into a common recommendation to the extent that it can be. Clearly, one is a financing entity in terms of the Building Authority but--

TABLE OF CONTENTS

P

age

MR. SHIDLOWSKI: The role of this Commission, as I see it from what I read in the legislation and what I know about the Commission since its inception, is primarily an advisory role to the Legislature and the Governor on the investment of scarce capital resources, somewhat different of the Building Authority which is primarily involved--

MR. MORTIMER: Putting up the money.

MR. SHIDLOWSKI: --financing. They have to come to this Commission for us to concur that it is a worthwhile investment. It is our advice that goes to the Legislature before they can move a joint resolution.

In terms of overlap, that is really the only point where we overlap. We don't actually see a lot of work from the Building Authority.

MR. MORTIMER: I know you don't, Paul, and not to belabor the point, but sitting on these Authorities as the Treasurer's designee, I can tell you there is a lot of duplicative work going on. Similar discussions that we have at this Commission are going on by Authority members at the Building Authority, and in some cases, the data that they are getting may be better than what we are seeing because of format or direction. It is not a criticism or a change of role, it is just that there are--

MR. SHIDLOWSKI: There are a lot fewer projects that they consider.

TABLE OF CONTENTS

P

age

MR. MORTIMER: Correct. Again to play back to Mr. Davidoff's point, one of his underlying themes is that we need to be more informed. We need to have better data. If there is a mechanism already in place that we don't have to replicate, that we don't have to ask more staff to be added for, and we can take advantage of it, should that be considered in the role of this Commission? That is the topic that we are discussing.

I guess the reason for raising the point was to get direction from the Commission as to whether or not they would like the Executive Directors of those two entities -- a matrix and come back and say, "Here is the data, what do you want to do with it?"

MS. MOLNAR: Which two entities does the Building Authority--

MR. MORTIMER: Primarily the Building Authority and the Commission. The others are lesser players, but they do contribute.

MR. DAVIDOFF: Madam Chair.

MS. MOLNAR: Yes, Mr. Davidoff.

MR. DAVIDOFF: I just wanted to comment that I think it is a great idea. I, for one, would certainly be supportive of our proceeding in that fashion.

MS. MOLNAR: Would that require some legislative change down the road?

TABLE OF CONTENTS

P

age

MR. MORTIMER: It depends on what we receive in terms of the matrix and--

ASSEMBLYMAN ROMANO: Madam Chair, I have a point.

We are mentioning all of these Authorities and parts of the State-- Could we have a flowchart of who flows where? Who has the pass-- Let's say, when does the Commission come in with some of these Authorities, or whatever you want to call them? I understand we also have to pass on with a new building going in, as far as where it is being placed. I think it would be helpful if we had a flowchart and perhaps alongside explaining those from here, there it must be this or that, or whatever the case.

MR. MORTIMER: That would be quite a flowchart because with JMC and the State House Commission--

ASSEMBLYMAN ROMANO: No, all I am looking for is in our connection -- the Commission.

MS. MOLNAR: Who touches this Commission? The Building Authority--

MR. MORTIMER: EDA.

MR. SHIDLOWSKI: EDA doesn't--

MR. MORTIMER: No, but the projects we approve could receive EDA funding.

MR. SHIDLOWSKI: That is true, they could.

TABLE OF CONTENTS

P

age

MS. MOLNAR: There is some--

MR. MORTIMER: To be candid with the Assemblyman, I have seen a hand drawn flip chart of something that does, in fact, Senator (*sic*), look like an octopus. Unfortunately, the tentacles are not all coming into the same head. (laughter) Perhaps that might be an exercise that we can ask Paul and Chuck to work on. I will see if I can help facilitate with some other people in Treasury.

MS. MOLNAR: Paul is busy on our capital process.

MR. MORTIMER: I understand.

MS. MOLNAR: So when-- Try to be considerate of his--

MR. SHIDLOWSKI: Over the summer some time.

MS. MOLNAR: He is talking summer -- next summer to do what you are suggesting.

MR. MORTIMER: I am suggesting that July is an excellent time to do it.

MS. MOLNAR: Good. Just to make sure.

Any other suggestions regarding role of the Commission? (no response)

If not, let's move onto the bylaws. That is an interesting--

MR. DAVIDOFF: Do you need a motion on this?

Did we adopt them as changes?

TABLE OF CONTENTS

P

age

MS. MOLNAR: No.

The bylaws are interesting to read.

Now, Mr. Mortimer, you had a suggestion about a Vice-Chair. Do you want to bring that up now, perhaps?

MR. MORTIMER: I think that the only reason I raised it before was because I misread the bylaws as being -- I assumed that they were already in place, that this wasn't the first time we were drafting them. I apologize. I think having a Vice-Chair is an excellent organizational tool because it does allow for emergent matters where--

MS. MOLNAR: We used to have a Vice-Chair. I was Vice-Chair under the prior Chairman and the Chairman before him. It is helpful for me.

MR. MORTIMER: The question I was going to ask was-- There is a distinction between Chair and Vice-Chair, at least-- The Chair, as noted here, says a public member--

MS. MOLNAR: It is in the legislation.

MR. MORTIMER: --whereas, Vice-Chair doesn't have that exclusion. I would-- My question is going to be, was it the legislative intent that might carry forward that the Vice-Chair would also be a public member?

MS. MOLNAR: The Vice-Chair is not in the legislation. That is separate under operating. That is one of the questions I had.

TABLE OF CONTENTS

P

age

Paul, you drafted these. Was there any thinking behind that, allowing a Vice-Chair from all members rather than just the public members? It has always been from the public member.

MR. MORTIMER: I am fine with that, Madam Chair. I was just thinking that it might make some sense to open it up to other Commission members. I have no reservations about making it a public member.

ASSEMBLYMAN ROMANO: Be my guest.

MS. MOLNAR: There are a lot of talented, nonpublic members on here, so I don't know if you want to foreclose that possibility or not. It is a good training ground. Since the Chair has to be a public member and if the Vice-Chair was not a public member, they could not move into that slot.

Marty.

MR. DAVIDOFF: May I suggest. I have a few, what I think, very minor comments. I suggest you go article by article and ask for comments, and then we can go on with it.

MS. MOLNAR: Article one. (no response)

Seal-- Do we have a seal?

MR. SHIDLOWSKI: No.

MR. DAVIDOFF: Then should we remove that section?

MS. MOLNAR: Would you like to propose one?

TABLE OF CONTENTS

P

age

MR. SHIDLOWSKI: We could have one now that would go on all of our reports, etc.

MS. MOLNAR: What would it look like? (no response)

Okay, article two.

MR. ANNESE: Move article two.

MR. SHIDLOWSKI: What about--

MR. ANNESE: It is legislative, we have no choice.

SENATOR LITTELL: On article four, we are going to need to reword that because we are certainly not--

MR. DAVIDOFF: Yeah, I am.

SENATOR LITTELL: --authorizing anybody to be employed.

MR. SHIDLOWSKI: Well, *B* deals with that.

MR. DAVIDOFF: Yeah, I would take out *A* and I would--

MS. MOLNAR: Wait a minute, did we do three?

MR. DAVIDOFF: No we didn't.

MS. MOLNAR: Article--

MR. SHIDLOWSKI: The reason why-- Oh, okay.

MS. MOLNAR: We go to article three first.

MR. DAVIDOFF: Article three, I guess, we should make the Vice-Chair a public member.

TABLE OF CONTENTS

P

age

MR. ROTH: I think that stands to reason. We are basically saying that the Vice-Chair should preform the duties of the Chair in the event the office of the Chairperson is vacant. The legislative intent is that the Chair be a public member.

MR. DAVIDOFF: Move article three with that change giving the Executive Director -- to insert the appropriate wording to secure the intent.

ASSEMBLYMAN ROMANO: Who made this, by the way?

MR. SHIDLOWSKI: I did.

MR. DAVIDOFF: As Senator Littell said for article four, I would suggest removing item A.

MS. MOLNAR: That is in the legislation.

MR. SHIDLOWSKI: That is in the legislation.

MR. DAVIDOFF: But these are our bylaws.

MS. MOLNAR: It says may employ, not shall.

MR. DAVIDOFF: But we don't have a budget. I don't think we need to-- Either that or we just put his role there and don't put who is going to employ what and just eliminate A and B because bylaws don't usually talk about employing; they talk about roles. Just leave it from C on, with the role of the Executive Director, and totally take out A and B.

MS. MOLNAR: But then if you just leave C hanging by itself, it looks like we must have one, then.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: Yeah, sure.

MS. MOLNAR: Executive Director shall serve-- Paul is the Acting Executive Director.

MS. HIGGINS: He is the Acting?

MS. MOLNAR: Yeah, that is his title. He is not the Executive Director. He is the Acting.

MR. ROTH: So shouldn't *B* read *A* alternatively, the Acting Executive Director@?

MR. MORTIMER: The function of his title is not because he is paid or not paid, it is just the decision of the Commission on how to deal with it. It is not a question of whether or not--

MR. DAVIDOFF: Is there something we can do to make him Executive Director as opposed to Acting?

SENATOR LITTELL: I think it would be a good idea to have Paul work with OLS staff, and if it means a change in the legislation, then we can take a look at that.

I think article four -- the first one ought to come out even if it is in the law. It doesn't need to be in the bylaws.

MS. MOLNAR: All right.

MR. DAVIDOFF: So what are we doing with article four?

MS. MOLNAR: Take section one out completely.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: The whole section one about the Executive Director? Or is it *A* and *B*?

MS. MOLNAR: *B* could start with *A* An Executive Director shall be named. @ You just get rid of *A* alternatively. @

MR. DAVIDOFF: So we have to go to the Director of the Division of Budget and Accounting to name Paul as our permanent Executive Director? Would that be--

MR. SHIDLOWSKI: You have me, Mr. Davidoff. My services were offered to the Commission pro bono by the Director of the Office of Budgeting, OMB, who is my boss.

ASSEMBLYMAN ROMANO: If they gave you title, would that increase you on the pay scale?

MR. SHIDLOWSKI: Probably not.

MS. HIGGINS: Is the Acting a result of this Commission not having endorsed you? It seems not to be a function of OMB not having endorsed you.

MR. SHIDLOWSKI: This Commission accepted my services.

MS. HIGGINS: In the past, have we had the Acting in front of the name of the title?

MS. MOLNAR: Yes, Bob Preston was Acting.

TABLE OF CONTENTS

P

age

MS. HIGGINS: How would someone have gone from Acting to nonacting?

MR. SHIDLOWSKI: Would they have to be confirmed by the Senate? Do you know the answer to that?

MS. HIGGINS: How about we research that?

MR. ROUSSEAU: Paul, is there more there? Maybe, that it just gives the flexibility to the OMB Director to -- that if you are not around, to be able to name somebody quickly or something like that. Is that more of what it may be? The same way--

MR. SHIDLOWSKI: I don't know that that was thought of.

MR. DAVIDOFF: We can always do an Acting later, but I-- If there is any way to make Paul not have that word Acting in front of his title--

MR. MORTIMER: Why don't we leave Paul with the motivation to come back to us with what our options are?

MS. MOLNAR: All right--

SENATOR LITTELL: Another issue for--

MR. DAVIDOFF: So, in the meantime, *A* comes out, and *B* says the "Executive Director shall be named"?

MS. MOLNAR: "An Executive Director shall be named."

MR. DAVIDOFF: Can we make it *B*?

TABLE OF CONTENTS

P

age

And four -- I don't think we need four, contracting paragraphs. Should we take that out? Section four of article four.

MS. MOLNAR: Is that in the statute?

MR. SHIDLOWSKI: It is in the legislation.

MR. MORTIMER: Any commission or authority that is established by the Legislature -- one of the things they do is establish what contracting authorities it will follow. This says it will follow the Treasury procedures. It is standard.

MR. DAVIDOFF: Move article four as amended.

MS. MOLNAR: Okay. Article five.

MR. DAVIDOFF: I have a couple changes there I would like to propose.

I would like to-- If we are going to have a minimum number of meetings -- one year I think we may have only had four or maybe five or it might have been four--

MS. MOLNAR: Is that in the statute?

MR. DAVIDOFF: I would like to make it four in case one year we don't -- we were in compliance.

The second page on the top asks for a special meeting. I think a majority of the public members should be able to call it, so instead of any four members, I would like to make it any three members -- in line two. On line 34,

TABLE OF CONTENTS

P

age

where it says telephone call-in votes, I would like it to say telephone call-in votes and written proxies are acceptable. Again this is voting and not quorum.

MS. HIGGINS: Does E-mail count?

MS. MOLNAR: That is a good question.

MR. DAVIDOFF: I would call E-mail a written proxy. If it is somehow authorized and they know it is the real person--

I have a question about the paragraph that starts on line 25 --
Each legislative member of the Commission may designate a staff member@-
That's okay. I thought-- I am sorry, I thought this was saying legislators could-
- I thought we had an opinion that their staff members can't vote for them.

MS. MOLNAR: No.

MR. DAVIDOFF: Is says they can.

MR. SHIDLOWSKI: We allow legislative designees to vote on the minutes, for example, as a matter of general business. I think if you go and look at the reservations, you will notice that it precludes them from voting for certain--

MR. DAVIDOFF: Okay.

MR. SHIDLOWSKI: --capital recommendations, bond referenda, project reports from the Building Authority, etc.

SENATOR LITTELL: Well, I have a problem with that.

TABLE OF CONTENTS

P

age

The legislative members should be treated the same as the executive members.

MS. MOLNAR: Shouldn't we get an AG opinion on it?

MR. SHIDLOWSKI: Actually, we had an opinion from the Legislative Counsel a couple of years ago. Basically, it was not a responsibility that legislative members could designate to a delegate. I have that--

MR. MORTIMER: Madam Chair.

MS. MOLNAR: Yes.

MR. MORTIMER: Can I go back to the issue--

MS. MOLNAR: I am sorry.

MR. MORTIMER: --voting about proxy?

MS. MOLNAR: Sure.

MR. MORTIMER: I have reservations about allowing proxy votes or telephone or E-mail votes unless -- for example, if it is a telephone vote and the person is on--

MS. MOLNAR: And they are hearing the whole discussion.

MR. MORTIMER: --hearing the whole thing until the vote is taken. Precalling in and saying, 'I am okay with item two, three, and four,' regardless of knowing whether or not change took place during the meeting so-- I can't imagine legislators voting by proxy on the floor.

MS. MOLNAR: Yeah.

TABLE OF CONTENTS

P

age

MR. ROTH: Would that require, with something which I don't think we have, a conference call hookup in our meeting room?

MR. MORTIMER: That is an easy thing to resolve. Technologically, that is an easy thing for us to resolve, but I don't think our bylaws should reflect proxy votes.

MR. ROTH: I agree with you.

MR. DAVIDOFF: Then I will withdraw my request to change it.

MS. MOLNAR: Yeah, a couple of years ago, on the Commission, we talked about this, and that was part of the discussion.

MR. SHIDLOWSKI: I can't believe it was Senator Littell who voted by calling in.

MR. MORTIMER: Calling and being a part of a discussion and hearing the whole discussion and voting on the matter and -- that's understandable, but calling in advance with your score list, if you will--

MS. MOLNAR: You should hear the discussion.

MR. DAVIDOFF: The telephone call-in votes at the time of the vote--

MR. MORTIMER: Correct.

MR. DAVIDOFF: So you want to add telephone call-in votes at the time of the vote as opposed to in advance?

TABLE OF CONTENTS

P

age

MS. MOLNAR: We had people present telephonically. We had a speakerphone at one meeting, and it worked.

MR. DAVIDOFF: Okay, so with those -- them three changes in article five--

MR. MORTIMER: Could you just restate them, Marty?

MR. DAVIDOFF: I am going to do that.

Four meetings instead of five as our regular meetings -- minimum. On top of Page 4, three members may call a meeting as opposed to four.

MS. MOLNAR: Why do you want to change that again? Four would be what part of--

MR. DAVIDOFF: Three would be a majority of the public members.

MS. MOLNAR: Oh.

MR. DAVIDOFF: The majority of any-- If the majority of the -- any of the branches -- three out of four of any of them should be able to call a meeting. Sometimes I don't think it will happen. If we need a meeting, we will ask you and you will do it. Just looking at this long term--

MS. MOLNAR: Has it ever been that low? On any board I have ever sat on-- Three sounds low.

MR. MORTIMER: Yeah, I am surprised. It is less than a quorum.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: To just call a meeting.

MR. MORTIMER: To call a meeting.

MS. MOLNAR: I have seen four or five.

MR. ROTH: You can call a meeting, but you may not get a quorum for it.

MR. DAVIDOFF: I have seen 20 percent call meetings.

ASSEMBLYMAN ROMANO: No, I have-- When you call meetings, it has to come through the Chair and not just-- No member just says let's have a meeting and has two people along with him.

MR. DAVIDOFF: Here we have a provision that says, "On the request of any four members, the Executive Director and the Chairperson must call a meeting." That is the way it is written out. They may -- or they must if four members requested it, is the way it is written. I was suggesting that if three members request it, but nobody--

SENATOR LITTELL: You have to be careful with that. Three members could get together and call a meeting-- It is not taken into account the calendars that everybody has. It is pretty tough to get things scheduled as it is.

MR. DAVIDOFF: I don't think it says that we can set the time.

SENATOR LITTELL: You are going to create animosity--

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: It says the Executive Director still has to call the meeting, but the Executive Director calls the meeting with our request. I don't think it says that we set the time. It's just that if three members say we need a meeting for whatever--

SENATOR LITTELL: Doesn't it tend to create animosity, though, in the Commission?

MR. DAVIDOFF: I guess it is just a provision to call a special-- I don't think we will ever do it, but most organizations have it.

MS. MOLNAR: Can we leave it at four?

MR. DAVIDOFF: Fine.

So the only other change is at the end of telephone votes, we are adding the words at the time of the vote--

MR. SHIDLOWSKI: Right.

MR. DAVIDOFF: --is an acceptable or are acceptable.

MR. MORTIMER: Now, where do you want -- telephone call-in votes are acceptable--

MR. DAVIDOFF: Telephone call-in votes, at the time of the vote, are an acceptable voting pretense.@

MS. MOLNAR: Anything else in that section? (no response)

Order of business is next.

ASSEMBLYMAN ROMANO: I have a point, Madam Chair.

TABLE OF CONTENTS

P

age

If you had one of those emergency meetings where the members are delimited -- what is it? Three or four, then you have in there about voting-- You are going to have to indicate what casts majority. If you had three people at a meeting -- or four people -- how many votes do you need?

MR. DAVIDOFF: No, you still need a quorum to--

MR. ROTH: You still need a quorum to have the meeting, but four people can ask for the meeting is what he is saying. If nobody shows up, there is no meeting.

MR. DAVIDOFF: A special meeting may be called-- They still require a quorum to do it. All it says is, if four people go to the Executive Director -- Chairman and say we need a special meeting, the Executive Director has to set a time, call the meeting. If we don't get a quorum, we don't get a quorum.

SENATOR LITTELL: I question whether special meetings are even authorized under the Open Public Meetings Act.

ASSEMBLYMAN ROMANO: How many are quorum?

MR. MORTIMER: Seven.

SENATOR LITTELL: I am not sure it is authorized under the Open Public Meetings Act.

MR. DAVIDOFF: We did the announcement.

TABLE OF CONTENTS

P

age

SENATOR LITTELL: You did the announcement and it certainly opened-- The doors are open. I don't think the Open Public Meetings Act authorizes that. I asked OLS this morning to take a look at that.

MR. SHIDLOWSKI: I am sorry, I missed that.

SENATOR LITTELL: Where did the term special meetings come from?

MR. MORTIMER: It is just that it is not a regularly scheduled meeting.

MR. SHIDLOWSKI: Right. We only need a 48-hour notice.

SENATOR LITTELL: Maybe you ought to add to that paragraph what it says on the paragraph below, in accordance with the Open Public Meetings Act, so that there is no misunderstanding that it is not some closed meeting.

MR. DAVIDOFF: That makes sense.

ASSEMBLYMAN ROMANO: I knew you would figure it out, Senator.

MS. MOLNAR: Anything else under that section?

ASSEMBLYMAN ROMANO: How far down are we, Madam Chair?

MS. MOLNAR: We are up on Page 5 now, article six.

TABLE OF CONTENTS

P

age

SENATOR LITTELL: I still have a problem with those exceptions -- eight, nine, ten, and eleven.

MS. MOLNAR: Right.

I know we took a vote on this Commission based on that legal opinion. It has been two years ago. I don't know if anything has changed since then, but I suspect that--

MR. DAVIDOFF: I guess the legislative change will fix that.

MS. MOLNAR: There you go. Legislative change--

MR. SHIDLOWSKI: And that was the remedy suggested by the Legislative Counsel.

MS. MOLNAR: The Legislative Counsel suggested a legislative change.

Order of business--

MR. DAVIDOFF: I recommend the following phrase at the end, "The Chair may revise the order of business to meet specific scheduling needs."

MS. MOLNAR: Thank you. That sounds good to me.

ASSEMBLYMAN ROMANO: I would like to go back to nine.

MS. MOLNAR: Nine.

ASSEMBLYMAN ROMANO: Actually eight and nine. It is nine. You have regarding the-- Actually it is ten. You have New Jersey Building Authority--

TABLE OF CONTENTS

P

age

Mr. Mortimer--

MR. MORTIMER: Yes.

ASSEMBLYMAN ROMANO: --this is one of them.

Then you have -- there was another one -- general bond referenda. Are there any other agencies, that we have to review, involved with the bond, etc., etc., other than the Building Authority project?

MR. SHIDLOWSKI: This Commission is also empowered to review any legislation that would make capital appropriation except for the General Appropriations Act.

ASSEMBLYMAN ROMANO: What I wanted to ask, too, was-- The gentleman who was here on the State Plan-- Is there anything we have to do with that?

MR. SHIDLOWSKI: We do. We need to--

ASSEMBLYMAN ROMANO: Just show it and get their approval.

MR. SHIDLOWSKI: Right. We need to be consistent.

ASSEMBLYMAN ROMANO: Not that we have to get--

MR. SHIDLOWSKI: That's correct.

ASSEMBLYMAN ROMANO: What it is that I am getting at is, what approvals must we give to list them out in the menu?

MR. SHIDLOWSKI: This is pretty much it.

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: Is that pretty much it, Mr. Mortimer?

MR. MORTIMER: I think, from a court approval point of view--

ASSEMBLYMAN ROMANO: That is what I mean, from approval--

MR. MORTIMER: Yes, I believe that's the case. The others may be linked to us, but they don't require us to authorize.

ASSEMBLYMAN ROMANO: Okay.

MR. DAVIDOFF: I just have a question about eight, nine, and eleven.

They have the wording ~~an~~ affirmative vote of at least an absolute majority of the authorized membership of the Commission.[@] Could I change that so that there is no misinterpretation?

MS. MOLNAR: Yes.

MR. DAVIDOFF: And just say, ~~at~~ least seven people who vote affirmatively for it.[@] That is what, I think, you mean there.

MR. SHIDLOWSKI: That's what I mean.

MS. MOLNAR: I like that better. It is clearer.

MR. DAVIDOFF: That-- There are 12 Commission members, and we need at least seven votes to pass those things.

MS. MOLNAR: Good, good, I like that.

TABLE OF CONTENTS

P

age

MR. DAVIDOFF: Do the appropriate wording.

MS. MOLNAR: When in doubt, keep it simple.

MR. DAVIDOFF: That way nobody has to interpret absolute majority is seven votes.

MS. MOLNAR: Good catch.

Could you give us the language, again, for article six?

MR. DAVIDOFF: Article six, The Chair may revise the order of business to suit specific scheduling needs.@

MS. MOLNAR: Terrific, that is helpful.

MR. MORTIMER: Did we just raise an inconsistency between seven and the last four? Seven requires--

MR. DAVIDOFF: Section seven, or article seven?

MR. MORTIMER: Section seven of article four -- article five, excuse me. As I understand it, we simply have to have a majority of those present. That could include designees.

MR. DAVIDOFF: In section seven, you just need a plurality. Eight, nine, and eleven, you need seven votes.

MR. MORTIMER: I understand, but what are we getting pluralities on? What are we voting on?

MR. DAVIDOFF: Minutes.

MR. MORTIMER: Where does that say that in seven?

TABLE OF CONTENTS

P

age

MR. ROTH: Well, it goes back to the designee section which, basically, says that the designees can vote on general business.

MS. MOLNAR: On seven and they can't vote on eight, nine, and ten.

MR. MORTIMER: Well, it says, take actions-- Actions may be taken and motions and resolutions may be adopted by the committee upon affirmative vote of a plurality of those present.@

MS. HIGGINS: And maybe it should say, Unless specified otherwise.@ That is what is being done.

MR. MORTIMER: Except eight, nine, ten, and eleven.

MR. DAVIDOFF: Good.

I don't know--

SENATOR LITTELL: Where is nine? I don't see nine.

MR. ROTH: Eight, nine, ten, and eleven say, specifically, that it must be the authorized members.

MR. MORTIMER: I know.

MR. DAVIDOFF: But he is right. It should say, Except as set forth in eight, nine, ten, and eleven.

MR. MORTIMER: Eight, nine, and ten are saying something else that seven is not consistent with.

SENATOR LITTELL: My sheet doesn't have a nine.

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: Okay. It is there.

MR. MORTIMER: Number nine is at the bottom of Page 4 on ours, Senator. It is the one that says bond referenda recommendations. Maybe it got carried over on yours.

MR. SHIDLOWSKI: I am sorry, Mr. Mortimer, could you repeat that?

MR. MORTIMER: If, in voting section seven, the same exception or the same notation about except article five, sections eight, nine, ten, and eleven so that what we are making clear is that a plurality of voting in seven doesn't apply to those four actions.

MR. ROTH: No, we're talking about the section of article five.

SENATOR LITTELL: Oh, I am sorry.

ASSEMBLYMAN ROMANO: You don't have anything about high crimes and misdemeanors.

MR. SHIDLOWSKI: We can add that.

MR. MORTIMER: We feel that is adequately covered in other places, Assemblyman.

MR. DAVIDOFF: Move article--

MS. MOLNAR: Seven.

MR. DAVIDOFF: I mean move article seven. Wait, there are two sevens.

TABLE OF CONTENTS

P

age

MS. MOLNAR: There are two sevens? Is that right?

There are two article sevens.

MR. DAVIDOFF: Move the first article seven.

MS. MOLNAR: We are going to have to change the numbering then.

MR. MORTIMER: That is why we don't have a number nine.

MS. MOLNAR: Okay.

MR. DAVIDOFF: As for the second article seven, I would suggest that the Chair is authorized to create committees and not the Executive Director.

MS. MOLNAR: Yeah.

MR. DAVIDOFF: Article 10, I would recommend that you require seven votes to amend just like sections eight, nine, and eleven of article 5.

MR. MORTIMER: You're talking about the article that is actually numbered in the paper as 10.

MR. DAVIDOFF: And actually, when we renumber it, it will end up 10 again.

Amendments-- Amendments should, obviously--

MS. MOLNAR: Okay, we are up to 11, 12--

MR. ROTH: Mr. Davidoff--

TABLE OF CONTENTS

P

age

May I ask a question?

Mr. Davidoff, are we, in article 10, allowing designees to vote for the amendments to the bylaws, or will it be authorized members?

MR. DAVIDOFF: I don't know that question. I would rather not address that issue.

MS. MOLNAR: Well, the way it reads up in section seven, they would be under voting. They only excepted out eight, nine, ten.

MR. SHIDLOWSKI: I will make that--

MR. ROTH: If we excepted out eight, nine, and ten, then it is covered.

MR. MORTIMER: No, those are sections eight, nine, and ten, not articles eight, nine, ten.

Sections eight, nine, and ten of article five.

MS. MOLNAR: You raise a good point.

MR. MORTIMER: Wouldn't amending the bylaws be considered routine business?

MS. MOLNAR: No.

MR. DAVIDOFF: May I?

If there are no other comments on the content, may I suggest that these be revised and redlined with the changes and put under our next package? And then we actually defer the vote until next meeting.

TABLE OF CONTENTS

P

age

MS. MOLNAR: Next package.

Now, Paul is putting together our presentation for the 30th, so I don't know what his time--

MR. SHIDLOWSKI: It might be tough to do it.

MR. DAVIDOFF: Then we defer until he has time to do that rather than us--

MR. SHIDLOWSKI: As soon as I can, I will send it out to Commission members with--

MR. DAVIDOFF: Redlined please.

MR. SHIDLOWSKI: Okay.

MS. MOLNAR: There was one issue that--

Are we done with the bylaws? (affirmative response)

This is somewhat related to the bylaws. It is under the appointment of members. Bob Roth raised it to me. In the old process, we were appointed by the Governor. In the new process, Marty was appointed by the Senate President. Any more vacancies in public members goes through a hierarchy: next comes the Assembly, and then the Governor can appoint.

It is unclear to the public members what the process is if a public member wants to be reappointed. We don't know. Should we approach the legislators or what?

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: I think it deserves a direct letter to the Governor. If someone wishes to be reappointed--

SENATOR LITTELL: And the two presiding officers.

ASSEMBLYMAN ROMANO: That is not the issue that they are talking about, Senator. What they are saying is that if one of the public members wants to be reappointed, you and I have no power in the reappointment other than a phone call. They should send a letter.

MR. MORTIMER: I think the Senator is correct. There are four public members. One public member is appointed by the Senate President, one is appointed by the Speaker--

MS. MOLNAR: And then two from the Governor's Office.

MR. MORTIMER: And the order of sequence was established in the Act that said that the first vacancy in the public members would be the Senate President's appointment. The next vacancy would become the Assembly Speaker's appointment, and the next two would become the gubernatorial appointments.

MS. MOLNAR: So who do we go to, since we don't know who is up when?

MR. DAVIDOFF: Well, I was the Senate, so was anybody appointed by the Assembly?

TABLE OF CONTENTS

P

age

MR. MORTIMER: Whose term is up next, and are they of the three--

MS. MOLNAR: We think three of us are up at the end of 1999.

MR. MORTIMER: Perhaps, what we can ask is that the Acting Executive Director could get the exact dates of terms for all four public members, noting that Mr. Davidoff has just been appointed. That would let us know if, in fact, there is even a day difference.

MS. MOLNAR: There is.

MR. DAVIDOFF: Mine is 2002.

MR. MORTIMER: But I mean, even within the same year.

MS. MOLNAR: There is. There is November, December--

MR. MORTIMER: Well, then that sequencing, I think, would be driven accordingly so that the public member that is most soon up would be the Assembly.

MS. MOLNAR: Right.

MR. MORTIMER: And that person, I would suggest, would write a letter to the presiding officer of the Assembly expressing their interest. The remaining two members, regardless of what their date is, since they would be gubernatorial appointments, would address their letter to the Governor's Office via the appointment office and let their interest be known.

ASSEMBLYMAN ROMANO: Just one point, if I may?

TABLE OF CONTENTS

P

age

You mean there is an order for the succession, but were you appointed by the Senate?

MR. ROTH: By the Governor.

He was appointed by the Senate.

MS. MOLNAR: Marty is the first one under the new Act.

ASSEMBLYMAN ROMANO: Marty, you are under the--

MS. MOLNAR: Senate President.

ASSEMBLYMAN ROMANO: --Senate President.

MS. MOLNAR: The next person is Assembly.

ASSEMBLYMAN ROMANO: That is his area.

MR. DAVIDOFF: Senator Inverso--

ASSEMBLYMAN ROMANO: But regardless--

MR. DAVIDOFF: Senator Inverso--

ASSEMBLYMAN ROMANO: No, I am talking about regardless.

You, let's say you-- No, you have to talk to legislators on this here.

MR. ROTH: The next opening is the Assembly appointment.

ASSEMBLYMAN ROMANO: What do you mean the next--

MR. ROTH: The next one of us that leaves this division -- the person that replaces us will be appointed by the Assembly Speaker.

ASSEMBLYMAN ROMANO: Regardless that you were not appointed by the Assembly.

TABLE OF CONTENTS

P

age

MS. MOLNAR: The rules are now in effect. We are not grandfathered in that respect.

MR. ROTH: And then the following two will be appointed by the Governor.

In essence, the three other members-- I think all of our terms are up next year, anyway. So it is just a question of which one of us applies to the Assembly and which two of us apply to the Governor.

MS. MOLNAR: Yes, that is one of the process questions that we had. We weren't sure under the new procedure.

MR. MORTIMER: Once you know the dates, then the process that was outlined will be the appropriate process.

ASSEMBLYMAN ROMANO: Is this from the original bill?

MR. ROTH: This is the amended bill. The 1996 bill.

MS. MOLNAR: But, prior to this, the Capital staff would go to the appointing officer and lobby for the public member. Not all of them are always reappointed.

MR. MORTIMER: Correct, but there is a protocol. The first protocol is that if the sitting member is interested in being reappointed, they should contact the appropriate appointing entity to let them know that they are interested.

MS. MOLNAR: See, Paul used to do that process.

TABLE OF CONTENTS

P

age

MR. ROTH: Within what time frame would you suggest?

MR. MORTIMER: I would-- This is--

ASSEMBLYMAN ROMANO: Why? Are you coming up for reappointment?

MR. ROTH: All of us are.

MR. MORTIMER: I would suggest that as soon as you know who your appointing angel is, pray to it. (laughter) As soon as you know. If Paul can let you know by phone call, Bob, that you are next, just hypothetically, I would suggest that you not only contact the Speaker, but you contact the Assemblyman in your district and say that you contacted the Speaker about his consideration for reappointment.

MR. DAVIDOFF: And the Assemblyman on this board.

MR. MORTIMER: Yes, that is correct.

ASSEMBLYMAN ROMANO: Stop, stop. Let's get to the quick. The Democratic Assemblymen are not involved. You would have to contact the Republican Assemblypeople or directly to the Speaker, Jack Collins. What is a Democrat going to do for you?

MR. MORTIMER: In all due difference, Assemblyman, I would think that both presiding officers would consider the comments from the member of the Legislature in the home district of the individual. So that, hypothetically, if Bob did live in your district and he wrote you asking--

TABLE OF CONTENTS

P

age

ASSEMBLYMAN ROMANO: Who is your Assemblyman?

MR. ROTH: Azzolina.

ASSEMBLYMAN ROMANO: They're Republicans.

MR. MORTIMER: Hypothetically, though-- I think the point is that the Speaker and the Senate President would not be surprised if a home Assemblyman or Senator did send a letter or made a phone call on behalf of Bob saying, "I would like to support his request for reappointment." And then you, Carol, as you point out, if you, as the Chair of the organization -- Commission wanted to contact the right appointing authority--

MR. ROTH: But it applies for all three of us.

MR. MORTIMER: I appreciate that, but I am just saying sequentially Carol, as the Chair, could send letters for the two.

SENATOR LITTELL: Which gets back to sending a letter from the Chairman to the Governor and the two presiding officers.

MR. ROTH: And the gubernatorial appointments do require advice and consent of the Senate, anyway. Don't they?

MR. MORTIMER: I do not believe that to be the case.

MS. MOLNAR: Not anymore.

MR. ROTH: Not anymore?

MS. MOLNAR: Not anymore.

TABLE OF CONTENTS

P

age

MR. MORTIMER: When the change was made where each body got its own appointed--

MR. DAVIDOFF: May I make a suggestion, Paul? When you update -- next time you update our names and addresses, just put the date our terms expire.

MS. MOLNAR: Yeah.

MR. DAVIDOFF: Then it will just be a permanent reference source for that.

MS. MOLNAR: Sure.

Is there any other business items that I -- you want to discuss? Have we touched on everything?

Our next meeting is Friday, October--

MR. DAVIDOFF: I think right here somebody has--

ASSEMBLYMAN ROMANO: When is our next meeting?

MS. MOLNAR: Friday, October 30.

MS. HIGGINS: I have another question.

I remember, at times in the past, there was discussion about the minutes. It has been raised again at a staff level. The issue, basically, is that the amount of effort it takes to generate the minutes and the fact that we do have a transcript available-- I wanted comments on, perhaps, the use of

TABLE OF CONTENTS

P

age

transcript in lieu of abbreviated minutes, which are a time-consuming item to produce.

MR. SHIDLOWSKI: I think I need to say-- We contacted the Hearing Unit, and we were advised by Harry White that we wouldn't always be able to have the transcript available for the next meeting. So when we do have the transcript available in time to send out the briefing materials, my preference would be to use that as opposed to preparing summarized minutes because of the amount of work that is involved. It is not something that we would be able to do dependably for every meeting.

MR. ROTH: When our meetings are spaced one or two weeks apart, I don't see how it is practical.

MR. DAVIDOFF: Do we have to vote on the minutes the next meeting? Can we wait until they are available?

ASSEMBLYMAN ROMANO: But now, the abbreviated minutes that you gave us last meeting--

By the way, did you bring your note from the doctor or your mother?

MS. HIGGINS: Actually, it would be the note from my son.

ASSEMBLYMAN ROMANO: We were told that is the way it will be and that the tapes will be available should someone want to listen to a transcript.

TABLE OF CONTENTS

P

age

Now where are we on the minutes?

MR. SHIDLOWSKI: Well, I mean, we took your criticism to heart, Assemblyman.

ASSEMBLYMAN ROMANO: Don't take it to heart.

MS. MOLNAR: It made an effect, see. You are heard.

MR. DAVIDOFF: Just on our last topic-- The Governor's appointees are with the advice and consent of the Senate, no more than one of whom shall be of the same political party.

MR. SHIDLOWSKI: Does it say that?

MR. DAVIDOFF: So it says, "Of the four public members, two shall be appointed by the Governor with the advice and consent of the Senate, no more than one of whom shall be of the same political party." So, if the two people on the board if they are on the same party, one of them is going to be gone.

MR. ANNESE: I think that was eliminated in the revision of 1996.

MR. DAVIDOFF: That is the revision, unless I was given the wrong-- And then it says, "One each by the President of the Senate" dada-dada-dada. It is 52:9S-2.

ASSEMBLYMAN ROMANO: I am sure Paul is going to get this all down straight.

TABLE OF CONTENTS

P

age

MR. ROTH: Two shall be appointed by the Governor with the advice and consent of the Senate in plain English. That is what I thought. That is why I raised it.

MR. DAVIDOFF: And different parties.

MS. HIGGINS: Well, we should compare notes now -- same parties.

SENATOR LITTELL: Are we done?

MS. MOLNAR: Yeah. Thank you, Senator, for coming.

ASSEMBLYMAN ROMANO: You realize how enlightened this was with the appearance of Senator Littell?

MS. MOLNAR: Absolutely.

(MEETING CONCLUDED)